

General Conditions for a Self-Lay Connection

IRISH WATER

**General Conditions for a Self-Lay Connection
(Version 0.1) (August 2018)**

General Conditions for a Self-lay Connection (the “General Conditions”)

1. Definitions: In these General Conditions the following definitions apply:

“Affiliate” of a Person means any subsidiary or holding company (within the meaning given to such expressions by the Companies Act 2014) of such Person or any subsidiary of any such holding company;

“Applicable Law” means all Acts of the Oireachtas, statutory instruments, regulations, orders and other legislative provisions which in any way relate to the Connection Agreement, including the Water Services Acts, the Building Regulations, the Construction Regulations and any code or guidance as may be issued from time to time by any Regulator or relevant industry authority. Any reference to “Applicable Law” or any enactment or statutory provision is a reference to it as it may have been, or may from time to time be amended, modified, consolidated or re-enacted;

“Building Regulations” mean the Building Control Acts 1990 to 2014 and all subordinate legislation and regulations made pursuant to the said Acts including, without limitation the Building Control Regulations 1997 to 2015, the Building Regulations 1997 to 2017 and relevant codes of practice, and any amendment, update or replacement or repeal thereof;

“Business Day” means every day other than a Saturday or Sunday or bank or public holiday in Ireland;

“Competent Authority” means any local or national or supra-national agency, authority, department, inspectorate, ministry, official or public or statutory Person (whether autonomous or not) or regulatory authority of Ireland or of the European Union which has jurisdiction over any of the Parties to the Connection Agreement and the subject matter of the Connection Agreement, including the Commission for Regulation of Utilities but excluding a court or tribunal of competent jurisdiction;

“Completion Certificate” means a written certificate in the form specified in Appendix 2B, Part 1 of these General Conditions, provided by Irish Water to the Developer pursuant to General Condition 11.19;

“Conformance Certificate” means a written certificate in the form specified in Appendix 2B, Part 2 of these General Conditions provided by Irish Water to the Developer pursuant to General Condition 11.15;

“Connection Agreement” means the agreement between the Developer and Irish Water to facilitate the connection of the Water & Wastewater Services Infrastructure to the Network(s), which shall be comprised of the Connection Offer (including the appendices thereto), the General Conditions and the Specific Conditions (if any);

“Connection Application” means the application submitted by the Developer to Irish Water in relation to the Service Connection(s), as set out in Appendix 1B of the Connection Offer;

“Connection Charge” means the charge for connecting to the Network(s) as specified in the Connection Offer. The Connection Charge shall only be deemed paid when funds have cleared in Irish Water’s bank account;

“Connection Facilities” means the facilities (including the Service Connection(s)) required to be constructed and/or upgraded and installed by Irish Water in order to connect the Water & Wastewater Services Infrastructure to the Network(s);

“Connection Offer” means the conditional offer letter issued by Irish Water to the Developer relating to the connection of the Water & Wastewater Services Infrastructure to the Network(s) and which forms part of the Connection Agreement;

“Connection Point(s)” means the location or locations to be determined by Irish Water (which shall be at the boundary to the curtilage of the Development) at which the Water & Wastewater Services Infrastructure is to be connected to the Waterworks (where, as specified in the Connection Offer, the Developer requires connection to the Waterworks) or the Wastewater Works (where, as specified in the Connection Offer, the Developer requires connection to the Wastewater Works) (via the Service Connection(s)). Connection Points may differ for Waterworks and Wastewater Works;

“Connection Works” means the permanent and temporary works and services to be performed by or on behalf of Irish Water in the acquisition, design, procurement, construction, and installation of the Connection Facilities, and the obtaining of permits, and the tie-in and commissioning of a Connection Point(s) in accordance with the requirements of this Connection Agreement;

“Construction Regulations” means the Safety Health and Welfare at Work Act 2005, the Safety Health and Welfare at Work (General Application) Regulations 2007 to 2016 as amended, the Safety Health and Welfare at Work (Construction) Regulations 2013 as amended and any guidance requirements issued from time to time from the Health and Safety Authority;

“Data Protection Legislation” means the Data Protection Acts 1988-2018, where applicable, as amended from time to time and any regulations or enactments thereunder, Regulation (EU) 2016/679 (the “General Data Protection Regulation” or “GDPR”) and all Irish and European Union (with direct effect) laws and regulations relating to processing of personal data and privacy for the time being in force in Ireland.

“Deed(s) of Grant of Wayleaves and Easements” means the Deed(s) of Grant of Wayleaves and Easements referred to in General Condition 13 hereof;

“Defects Liability Period” which means a period of 12 months from the date of the Conformance Certificate or 12 months after the Developer’s connection of the water service connection and boundary box to the last Premises in the Development, whichever is the

later, (save where such period is extended by Irish Water), as referred to in General Condition 11.15;

“Developer” means the person or entity to whom the Connection Offer is addressed and who has entered into the Connection Agreement with Irish Water;

“Development” means the housing or housing/mixed use development located at the address set out in the Connection Offer and identified in the map set out in the Specification, including the Premises, the Water & Wastewater Services Infrastructure to be constructed pursuant to this Connection Agreement and all ancillary infrastructure relating thereto;

“Dispute” means a difference or dispute between the Parties arising out of or in connection with this Connection Agreement;

“Distribution System” means a pipe and its related fittings, that is used or to be used as the case may be to convey water into or through one or more Premises (including any related internal or external taps) excluding a Service Connection;

“Drain” means a drainage pipe, or system of such pipes and related fittings for collection of Wastewater, that is not owned by, vested in or controlled by Irish Water, and that is not a Service Connection, which is used or to be used as the case may be, to convey Wastewater from one or more Premises or to any wastewater treatment system on a Premises where the Wastewater is generated;

“Environment” means the environment generally, including all physical, biological and ecological aspects of the environment and:

- (a) air, including that within buildings or natural or man-made structures above or below ground;
- (b) water, including the open sea, coastal or inland waters, ground waters, aquifers, drains and sewers;
- (c) land, including the seabed or riverbed under any water as described above, and any surface land and sub-surface land; and
- (d) human and animal health, and plant life;

“Environmental Law” means any statute or common law, or other requirement having the effect of law, in Ireland relating to the Environment, including without limitation the provisions of the Water Services Acts and Local Government (Water Pollution) Acts 1977 to 2007;

“Environmental Protection Agency” means the Environmental Protection Agency established pursuant to the Environmental Protection Agency Act, 1992;

“Final Documents” shall be as defined in the Code of Practice for Wastewater Infrastructure and outlined at General Condition 1.8 thereof (where connection is made to the Wastewater Works) and/or the Code of Practice for Water Infrastructure and outlined at General Condition 1.7 thereof (where connection is made to the Waterworks), as applicable. Both Codes are included in Appendix 6 to the Connection Offer which forms part of this Connection Agreement;

“Force Majeure” means any event not within the reasonable control of a Party and which could not have been prevented or the consequences of which could not have been prevented by a Party acting and having acted as a Reasonable and Prudent Operator/Person and which has the effect of preventing a Party from complying with its obligations under this Connection Agreement, including:

- acts of terrorists;
- war declared or undeclared, blockade, protest, revolution, riot, insurrection, civil commotion, invasion or armed conflict;
- sabotage or acts of vandalism, criminal damage or the threat of such acts;
- extreme weather or environmental conditions including drought, extreme storms, lightning, fire, landslip, accumulation of snow or ice, natural disasters, and phenomena including meteorites, the occurrence of pressure waves caused by aircraft or other aerial devices travelling at supersonic speeds, impact by aircraft, volcanic eruption, explosion including nuclear explosion, radioactive or chemical contamination or ionising radiation;
- any change of legislation, governmental order, restraint or directive having the effect of preventing or delaying the performance of any obligation hereunder;
- a strike or any other form of industrial actions by persons employed by the affected Party or by any local authority or by any contractor, subcontractor or agent of the affected Party;
- any strike which is part of a labour dispute of a national character occurring in Ireland or elsewhere;
- the act or omission of any contractor, subcontractor or supplier of either Party but only if due to an event which, but for the contractor, subcontractor or supplier not being a Party to the Connection Agreement, would have been Force Majeure;
- an outbreak of foot and mouth or any other restrictions put in place as part of a strategy to contain a communicable disease in Ireland; and
- the collapse of the euro currency;

provided that the following shall not constitute Force Majeure:

- lack of funds and/or the inability of a Party to pay;
- mechanical or electrical breakdown or failure of machinery or plant owned or operated by either Party other than as a result of the circumstances identified above; and
- any of the events referred to in General Condition 37 that result in modification of this Connection Agreement;

“Irish Water” means Irish Water (Uisce Éireann) a designated activity company incorporated in Ireland (company registration number 530363) and having its registered office at 24-26 Talbot Street, Dublin 1;

“Letter of Acceptance” means the letter issued by the Developer to Irish Water confirming its acceptance of Irish Water’s Connection Offer, the form of which is appended to the Connection Offer at Appendix 1A;

“Local Authority” means the relevant local authority referred to in the Connection Offer;

“Legal Requirement” means any Applicable Law, legislation or directive, regulation, requirement, instruction, direction or rule of any Competent Authority binding on either or all of the Parties to this Connection Agreement and includes any modification, extension or replacement thereof in force during the Term;

“Network(s)” means the Waterworks and/or the Wastewater Works, as applicable and specified on the face of the Connection Offer, and any related lands, which are owned by, vested in, controlled or used by Irish Water;

“PRA Compliant Map” means ordinance survey plans, suitable for registration of any Deed of Grant of Wayleaves and Easements relating to property intended to be taken in charge by the Local Authority and the Water & Wastewater Services Infrastructure to be vested in Irish Water together with all easements relating thereto suitably identified by the relevant symbols and/or colours designated by the Property Registration Authority.

“Premises” means any premises within the Development which are specified or referred to in the Connection Offer, including any part of any public or private building, vessel, vehicle, structure or land (whether or not there are structures on the land and whether or not the land is covered with water), and any plant or related accessories on or under such land, or any hereditament of tenure, together with any out-buildings and curtilage and which is:

- to receive Water Services; or
- specified in the Connection Application; or
- a premises deemed to be a premises by Irish Water; or

- such other premises as may be notified by the Developer to Irish Water and accepted in writing by Irish Water from time to time,

but does not include land which is a Public Road, a road which is the subject of an order under Section 11 of the Roads Act 1993 or a road which has been taken in charge by a local authority pursuant to a non-statutory local authority taking in charge scheme;

“Premises Pipe Work” means the pipe, related fittings and associated accessories to be laid by the Developer within the boundary of a Premises in accordance with Relevant Standards, Requisite Consents and Applicable Laws and the Distribution System (if connecting to the Waterworks) and Drains (if connecting to the Wastewater Works), to be used to connect the Premises with the Water & Wastewater Services Infrastructure;

“Public Road” means a road over which a public right of way exists and the responsibility for the maintenance of which rests with a road authority;

“Reasonable and Prudent Operator(/Person)” means a person acting in good faith with the intention of performing its contractual obligations hereunder and in so doing and who in the general conduct of its undertaking exercises that degree of skill, prudence and foresight which would reasonably and ordinarily be exercised by a skilled and experienced operator complying with Applicable Law engaged in the same type of undertaking under the same or similar circumstances and conditions and the expression **“Standard of a Reasonable and Prudent Operator(/Person)”** shall be construed accordingly;

“Regulator” means where applicable all present and future regulatory bodies having jurisdiction over Irish Water including, but not limited to, the Commission for Regulation of Utilities, the Environmental Protection Agency, the Minister of Housing, Planning and Local Government, the Office of the Data Protection Commissioner, the Competition and Consumer Protection Commission and/or any other statutory body or regulatory authority which regulates on an on-going basis or from time to time the business or operations of Irish Water;

“Relevant Local Authority Security” means, as applicable, the bond required to be put in place or, alternatively, the cash lodgement to be made by the Developer in connection with the permission granted by the Local Authority for the Development;

“Relevant Standards” means the Codes of Practice and Standard Details set out in Appendix 6 to the Connection Offer;

“Required Security” means the financial security required by Irish Water, as specified in Appendix 8 of the Connection Offer;

“Requisite Consents” means all necessary permissions, consents, approvals, licenses, easements, certificates and permits as may be necessary for the Developer to lawfully commence, carry out, maintain and complete its obligations pursuant to this Connection Agreement;

“Service Connection” means a water supply pipe or drainage pipe, together with any accessories and related fittings, extending from a Waterworks (where, as specified in the Connection Offer, the Developer requires connection to the Waterworks) or Wastewater Works (where, as specified in the Connection Offer, the Developer requires connection to the Wastewater Works) to the outer edge of the boundary to the curtilage of the Development and used, or to be used as the case may be, for the purpose of connecting the Water & Wastewater Service Infrastructure in the Development with the Waterworks and/or Wastewater Works (as the case may be);

“Self-Lay Works” means all works to be carried out by the Developer in connection with the construction of the Water & Wastewater Services Infrastructure, the Premises Pipe Work (which includes the Distribution System and the Drains) and any related works required to provide Water Services to the Premises within the Development, including:

- (a) the provision, installation, testing and commissioning of the Water & Wastewater Services Infrastructure within the boundary of the Development; and
- (b) the provision, installation, testing and commissioning of the Premises Pipe Work within the boundary to the curtilage of the Premises necessary to connect the Premises, Distribution System (if connection is to Waterworks) and Drain(s) (if connection is to Wastewater Works) to the Water & Wastewater Services Infrastructure.

These works shall be approximately in the position and at the levels indicated on drawing or drawings in the Specification and in accordance with the design that has been submitted with the Connection Application.

“Specification” means Irish Water’s specification for the Water & Wastewater Services Infrastructure as set out in Appendix 5 to the Connection Offer;

“Sewage” and **“Sewage Effluent”** have the meanings assigned to them by the Local Government (Water Pollution) Acts 1977 to 2007;

“Sewers” means sewers of every description, excluding Storm Water Sewers, owned by, vested in or controlled by Irish Water, but does not include a Drain or Service Connection;

“Special Conditions” means any special conditions attached to the Connection Offer or as may be agreed from time to time;

“Storm Water” means run-off rainwater that enters any pipe;

“Storm Water Sewer” means any pipe or other conduit (a) used solely for the conveyance of Storm Water; or (b) designed or intended to be used for the conveyance of Storm Water (whether or not it is connected to a sewer by a ‘storm water overflow’ within the meaning of the Waste Water Discharge (Authorisation) Regulations 2007;

“Term” means the term of this Connection Agreement as provided for in General Condition 25.1;

“Wastewater” means Sewage or other Sewage Effluent discharged, or to be discharged, to a Drain, Service Connection or Sewer but does not include Storm Water;

“Wastewater Works” means Sewers and their accessories, and all other associated physical elements used for collection, storage, measurement or treatment of Wastewater, and any related lands, which are owned by, vested in, controlled or used by Irish Water;

“Water & Wastewater Services Infrastructure” means (where according to the Connection Offer connection is to be made to the Waterworks) the water supply pipework and/or (where according to the Connection Offer connection is to be made to the Wastewater Works) the Wastewater collection pipework and all related fixtures, fittings and accessories to be constructed and laid by the Developer within the Development, as applicable, pursuant to this Connection Agreement, including all connections and pipework extending to the outer boundary of any individual Premises but excluding any Premises Pipe Work;

“Water Main” means water supply pipes owned by, vested in or controlled by Irish Water but does not include pipes, fittings and appliances to which the terms "Service Connection" or "Distribution System" apply;

“Water Services” means all services, including the provision of water intended for human consumption, which provide storage, measurement, treatment or distribution of surface water, ground water, and/or Wastewater collection, storage, measurement, treatment or disposal;

“Water Services Acts” means the Water Services Acts 2007 to 2017; and

“Waterworks” means water sources, Water Mains and their accessories, and all other associated physical elements used for the abstraction, treatment, storage, measurement or distribution of water, and any related land, which are owned by, vested in, controlled or used by Irish Water.

2. Interpretation: Unless the context otherwise requires, any reference in this Connection Agreement to:

- 2.1 any gender includes the other;
- 2.2 a statute, bye laws, regulation, delegated legislation or order is to the same as amended, modified or replaced from time to time and to any bye law, regulation, delegated legislation or order made thereunder;
- 2.3 any agreement, instrument or code is to the same as amended, novated, modified, supplemented or replaced from time to time;

- 2.4 unless otherwise specified any reference in this Connection Agreement to a "General Condition"/"GC" or "Special Condition"/"SC" is a reference to a General Condition or Special Condition in this Connection Agreement;
- 2.5 **"including"** means comprising but not by way of limitation to any event, class, list or category;
- 2.6 a **"Person"** shall be construed as a reference to any natural or legal person, firm, company, corporation, Government or Agency of a State or any association or partnership (whether or not having separate legal personality). A Person includes that person's legal or personal representative, permitted assigns and successors;
- 2.7 **"Party"** means a Party to this Connection Agreement and **"Parties"** shall be construed accordingly;
- 2.8 the singular shall include the plural and vice versa;
- 2.9 words not otherwise defined that have well-known and generally acceptable technical or trade meanings in the water industry are used in this Connection Agreement in accordance with such recognised meanings;
- 2.10 where a word or expression is defined in this Agreement, related words and expressions shall be construed accordingly;
- 2.11 headings are for ease of reference only and shall not affect its construction;
- 2.12 time shall be construed by reference to whatever time is applicable in Ireland;
- 2.13 where a Party is required to use **"all reasonable endeavours"** that Party should explore all avenues reasonably open to it, and explore them all to the extent reasonable, but the Party is neither obliged to disregard its own commercial interests, nor required to continue trying to comply if it is clear that all further efforts would be futile; and
- 2.14 references to the **"Commission for Regulation of Utilities"** shall include any Competent Authority which may replace or succeed the Commission and assume its functions in relation to the regulation of the water industry in Ireland.
- 3. Defined Terms in Connection Offer:** Terms which appear in uppercase in these General Conditions which are not otherwise defined shall have the meaning given to them in the Connection Offer.
- 4. Order of Precedence:** In the event of inconsistency or conflict between the Connection Offer, the General Conditions and the Special Conditions, the following order of precedence will apply: (1) Special Conditions (2) General Conditions (3) Connection Offer (and the remaining appendices thereto).

5. **Regulated Entity:** Irish Water operates within a regulatory framework governed by the Regulators.
6. **New Connection:** Irish Water shall charge and the Developer has agreed to pay in full the Connection Charge notified to the Developer in the Connection Offer. Following payment by the Developer and satisfaction of all other conditions set out in the Connection Offer, Irish Water shall perform or procure a third Party to perform its obligations under the Connection Agreement and the Developer shall perform its obligations under the Connection Agreement.
7. **Sub-contractors/Agents:** The Developer acknowledges that Irish Water may sub-contract or engage an agent to perform certain of the obligations of Irish Water pursuant to the Connection Agreement, in which case Irish Water shall not be relieved of any obligation or liability with respect to its rights or obligations under the Connection Agreement. The Developer shall have no recourse to any such third Party; the Developer's sole recourse shall be to Irish Water in accordance with the Connection Agreement.
8. **Rights and obligations under law.** Nothing in this Connection Agreement shall affect or prejudice any rights, duties or obligations of the Parties under Applicable Laws.
9. **Principal Obligations:**
 - 9.1 Provided the Developer carries out the Self-Lay Works in accordance with this Connection Agreement, Irish Water will carry out the Connection Works, or procure a third Party to carry out the Connection Works, to facilitate the connection of the Water & Wastewater Services Infrastructure to the Waterworks and/or Wastewater Works (as specified in the Connection Offer).
 - 9.2 Irish Water shall perform its obligations under the Connection Agreement in accordance with the Standard of a Reasonable and Prudent Operator and the terms and conditions of this Connection Agreement.
 - 9.3 The Developer warrants that it shall:
 - 9.3.1 carry out its obligations hereunder in a good and workmanlike manner to facilitate the connection of the Water & Wastewater Services Infrastructure to the Waterworks and/or Wastewater Works (as the case may be and as specified in the Connection Offer);
 - 9.3.2 proceed with its obligations hereunder diligently and in accordance with the programme agreed for the works with Irish Water;
 - 9.3.3 comply with all Relevant Standards and Applicable Laws and obtain and comply with the Requisite Consents;
 - 9.3.4 if required by Irish Water in the Connection Offer, acquire all rights for the laying of any Irish Water pipes forming part of the Connection Facilities; and
 - 9.3.5 comply with all requirements and conditions made or imposed in or as a

condition to the granting of any of the Requisite Consents, including but not limited to discharging all financial contributions, bonds, levies, licence fees, payments and deposits contained in, or required to obtain the, Requisite Consents.

10. Connection Charge:

10.1 The Developer shall, as a pre-condition to the effectiveness of the Connection Agreement, make payment to Irish Water of the Connection Charge set out in the Connection Offer.

11. Self-Lay Works

11.1 Based on the information provided in the Connection Application, Irish Water has drawn up the Specification for the Water & Wastewater Services Infrastructure. The Specification identifies the Connection Point(s) and sets out that the Water & Wastewater Services Infrastructure shall be constructed at the Development in accordance with the Relevant Standards.

11.2 The Developer shall have submitted for approval in advance of the making of a Connection Application to Irish Water the information contained in Section 2.3 (Design Submission) of the Code of Practice for Water Infrastructure and the Code of Practice for Wastewater Infrastructure (both appended to the Connection Offer) and this will form the basis of the Specification for the approved Water & Wastewater Service Infrastructure.

11.3 The Developer must comply with the following conditions prior to the commencement of the Self-Lay Works:

11.3.1 a Commencement Notice (a form of which may be found on the USB appended to the Connection Offer) must be submitted to Irish Water at developerscheduling@water.ie at least fourteen (14) days in advance of commencement of the Self-Lay Works; and

11.3.2 a pre-construction site meeting must be held with Irish Water in order to agree a start date, programme of works and arrangements for inspections by or on behalf of Irish Water. The Developer should email developerscheduling@water.ie at least ten (10) days in advance of the proposed meeting to agree a date and time for the pre-construction meeting with Irish Water.

Any failure by the Developer to adhere to the conditions stipulated in this General Condition may result in delays to the commencement of the Self-Lay Works.

11.4 The Developer shall carry out the Self-Lay Works and construct the Water & Wastewater Services Infrastructure at its own expense and in full compliance with:

- 11.4.1 the Specification;
 - 11.4.2 the programme, method statement(s), construction practices, inspection arrangements and risk assessments that are agreed as part of the pre-construction site meeting, referred to in General Condition 11.3 above;
 - 11.4.3 the design agreed with Irish Water;
 - 11.4.4 the Relevant Standards;
 - 11.4.5 Applicable Laws, including, without limitation, Environmental Law;
 - 11.4.6 the Requisite Consents;
 - 11.4.7 this Connection Agreement (including, for the avoidance of doubt, the Connection Offer and the documents appended thereto).
- 11.5 The Developer agrees that only Irish Water or its agent(s) is permitted to carry out the Connection Works and the Developer shall ensure that no flows shall pass through the Water & Wastewater Services Infrastructure unless and until Irish Water agrees otherwise.
- 11.6 The Developer shall arrange for Irish Water and its agents and contractors to have safe, free and unrestricted access at all reasonable times to the areas where the Self-Lay Works relating to the Water & Wastewater Services Infrastructure are being carried out so as to undertake quality assurance activities in accordance with the 'Quality Assurance Regime' set out in Appendix 9 of the Connection Offer and/or to complete the Connection Works.
- 11.7 Irish Water (including its agents and contractors) shall have the right at all times to enter upon and temporarily occupy so much of the area where such works referred to above are being carried out as may be reasonably required for completing any works incidental to the Connection Works and Irish Water may break open or otherwise interfere with such areas so far as may be reasonably necessary for the purposes aforesaid or for the purpose of carrying out the Connection Work(s) or for making plans, surveying, measuring, taking levels, examining, inspecting, maintaining, altering, repairing, renewing or removing any pipe. Irish Water (including its agents and contractors) shall also have the right at all times to enter upon and temporarily occupy so much of the area as may be required in order to inspect the Water & Wastewater Services Infrastructure, observe the carrying out of the Self-Lay Works, as outlined in the 'Quality Assurance Regime' in set out in Appendix 9 of the Connection Offer or rectify defects in the Water & Wastewater Services Infrastructure.
- 11.8 To agree any changes in the Specification, or to discuss proposals to rectify any notified defects, the Developer (or a contractor on behalf of the Developer) must give a minimum of five (5) days (excluding Saturdays, Sundays and public/bank holidays) notice in writing to Irish Water (or such shorter period as Irish Water may agree). A meeting involving the Developer, the contractor (if applicable) and Irish Water must then be held and Irish Water's written consent must be obtained by the Developer before any change to the Specification is commenced.

- 11.9 The Developer shall ensure that all operations necessary to carry out the Self-Lay Works shall be carried on so as not to interfere unnecessarily or improperly with public convenience or access to or use or occupation of public or private roads and footpaths and the Developer shall indemnify Irish Water in respect of all claims, demands, proceedings, damages, costs, charges and expenses whatsoever and howsoever arising out of or in relation to any such matters.
- 11.10 The Developer shall ensure that the Self-Lay Works shall be carried out without unreasonable noise, odour(s) and/or disturbance. The Developer shall indemnify Irish Water from and against any liability for damages on account of noise, odour(s) or other disturbance created while carrying out the Self-Lay Works and from and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in regard or in relation to such liability.
- 11.11 The Developer shall ensure that the following minimum insurance cover is in place throughout the Term and until (a) a Completion Certificate is issued by Irish Water and tie-in occurs (in the case of insurances listed at General Condition 11.11.1 to 11.11.4 below; and (b) the sixth anniversary of the date of the Completion Certificate, in the case of professional indemnity insurance (General Condition 11.11.5 below):
- 11.11.1 **Employers Liability** insurance cover with a minimum indemnity limit of €13,000,000 any one accident/occurrence and unlimited in the aggregate;
 - 11.11.2 **Public/Products/Pollution Liability** insurance cover with a minimum indemnity limit of €6,500,000 any one accident/occurrence unlimited in the period of insurance under the Public Liability and in the aggregate in respect of Products & Pollution Liability;
 - 11.11.3 **Contractors "All Risks"** insurance for the full reinstatement value of the proposed works in respect of any one claim;
 - 11.11.4 **Motor insurance** cover with a minimum third Party property damage limit of €5,000,000 for all vehicles owned, leased, rented or run by the Developer (including any Contractor(s) or agents) in connection with the services to be provided by it; and
 - 11.11.5 **Professional Indemnity** insurance with a minimum indemnity limit of €2,600,000 in respect of any one claim and unlimited in the aggregate.
- Insurance cover effected pursuant to this General Condition shall, with the exception of Professional Indemnity and Motor, include a specific indemnity to Irish Water.
- 11.12 The Developer shall, in advance of commencing any works, provide to Irish Water:
- 11.12.1 confirmation in writing that the insurance policies effecting the insurance referred to in this General Condition 11 (including levels of excess, limits of cover and territory) are in place;
 - 11.12.2 proof that all relevant premia have been paid and that the relevant policy or policies remain up to date and in existence.

- 11.13 The Developer shall notify Irish Water in writing when the Water & Wastewater Services Infrastructure has been completed and is ready to be connected to the Waterworks and/or Wastewater Works (as the case may be). This notification shall be accompanied by a set of Final Documents.
- 11.14 Within 5 Business Days of the notification as outlined above, Irish Water will inspect the Water & Wastewater Services Infrastructure and the Final Documents. Irish Water reserves the right to request rectification of any defects found in the Water & Wastewater Services Infrastructure, and to request amendments of the Final Documents, should they be found to be not in accordance with this Connection Agreement. Such remediation of the Water & Wastewater Services Infrastructure and rectification of the Final Documents shall be undertaken in the timeline set out by Irish Water.
- 11.15 Subject to Irish Water being satisfied that:
- 11.15.1 the Water & Wastewater Services Infrastructure has been completed in accordance with this Connection Agreement;
 - 11.15.2 the Final Documents provided by the Developer are in order; and
 - 11.15.3 the Developer has fully complied with its obligations in General Condition 13 hereof;
- it shall issue to the Developer in writing a certificate of conformance (the “**Conformance Certificate**”). This shall commence the Defects Liability Period during which time the Developer is responsible for the making good of defects imperfections, shrinkages or other faults in respect of the Water & Wastewater Services Infrastructure as may be required in writing by Irish Water. The Defects Liability Period may be extended by Irish Water for a period equal to the sum of any periods after the issue of the Conformance Certificate during which the Water & Wastewater Services Infrastructure cannot be used for Water Services by reason of a defect or damage or where the Water & Wastewater Services Infrastructure have not been completed in accordance with this Agreement.
- 11.16 Irish Water shall use reasonable endeavours to complete the Connection Works within 20 Business Days of the date of issue of the Conformance Certificate.
- 11.17 Irish Water shall undertake inspections, surveys, investigations to assess the continued adequacy of the Water & Wastewater Services Infrastructure during the Defects Liability Period. When required, Irish Water will notify the Developer in writing of the need for repair, reconstruction or rectification works in relation to the Water & Wastewater Services Infrastructure. The Developer shall execute or secure the execution of all works of accommodation or works of repair, reconstruction, rectification and making good of defects imperfections, shrinkages or other faults in respect of the Water & Wastewater Services Infrastructure, as may be required of the Developer in writing by Irish Water during the Defects Liability Period. All such works shall be carried out at the Developer’s expense. If the Developer shall fail to execute

or secure the execution of works as aforesaid Irish Water shall be entitled to carry out such works and shall be entitled to recover from the Developer the costs and expenses reasonably incurred by Irish Water in so doing.

11.18 Upon expiry of the Defects Liability Period and subject to the completion of the works specified in the Schedule of Corrections (as appended to the Conformance Certificate, or otherwise issued to the Developer) to the satisfaction of Irish Water, Irish Water shall issue a Completion Certificate to the Developer. The Developer hereby acknowledges and agrees that it will reimburse Irish Water for any costs incurred:

11.18.1 in undertaking any works referred to in General Condition 11.17 or any other works of construction, reconstruction, maintenance, rectification or repair or making good of defects imperfections, shrinkages or other faults by reason of the Developer or its contractor failing to complete in a good and workmanlike manner and in accordance with this Connection Agreement the entirety of the Water & Wastewater Services Infrastructure; and

11.18.2 towards invoices or sums payable by virtue of any actions, claims or demands made against Irish Water by any third Party as a result of any act or default by the Developer or its contractor.

11.19 The Developer hereby acknowledges and agrees that, in the event the Developer fails to reimburse Irish Water for its reasonable costs as referred to in General Conditions 11.17 and/or 11.18, Irish Water shall be entitled to seek deduction of the relevant amount(s) from the Relevant Local Authority Security and the Developer hereby consents to such deduction being made by the Local Authority on Irish Water's behalf.

11.20 The rights and obligations of the Parties in relation to the Defects Liability Period shall survive the termination or expiry of this Connection Agreement.

12. Ownership of Infrastructure

12.1 The Developer agrees that the Water & Wastewater Service Infrastructure shall vest in Irish Water upon such date as Irish Water issues a Conformance Certificate.

13 Title, Warranty and Registration, Wayleaves and Easements

13.1 The Developer hereby warrants and agrees that it has or can procure legal title to grant Irish Water all rights contained in the Deed(s) of Grant of Wayleaves and Easements and that where appropriate it has obtained all necessary consents including the consent of any financial institution or third Party.

13.2 Prior to Irish Water issuing a Conformance Certificate as set out at General Condition 11.15, the Developer shall:

13.2.1 deliver for approval by Irish Water the PRA Compliant Map;

13.2.2 deliver to Irish Water a duly executed Deed of Grant of Wayleaves and Easements (in duplicate) in the form as set out in Appendix 7 of the Connection Offer for the benefit of Irish Water and the Water & Wastewater

Services Infrastructure over all the lands which are intended to be taken in charge by the Local Authority **TOGETHER WITH** the PRA Compliant Map; and

13.2.3 Where the Water & Wastewater Services Infrastructure is not entirely comprised within the boundaries of the lands which are intended to be taken in charge by the Local Authority identified in the Connection Offer Letter, the Developer shall deliver to Irish Water a duly executed Deed of Grant of Wayleaves and Easements (in duplicate) in the form as set out at Appendix 7 of the Connection Offer for the benefit of Irish Water and the Water & Wastewater Services Infrastructure, (to include without limitation a protected strip of metres on all sides of the **Water and Wastewater Services Infrastructure** in respect of the full length of the **Water and Wastewater Services Infrastructure TOGETHER WITH** the PRA Compliant Map.

13.2.4 Where the Water & Wastewater Services Infrastructure is not entirely comprised within the boundaries of the lands owned by the Developer, the Developer shall deliver to Irish Water a Deed of Grant of Wayleaves and Easements (in duplicate) in the form as set out at Appendix 7 of the Connection Offer for the benefit of Irish Water and the Water & Wastewater Services Infrastructure, duly executed by the applicable landowner (to include without limitation a protected strip of metres on all sides of the **Water and Wastewater Services Infrastructure** in respect of the full length of the **Water and Wastewater Services Infrastructure**) **TOGETHER WITH** the PRA Compliant Map.

13.3 The Developer irrevocably and unconditionally undertakes and agrees with Irish Water:

13.3.1 to irrevocably instruct its appointed solicitor to use best endeavours to stamp and register the Deed(s) of Grant of Wayleaves and Easements in the Property Registration Authority as soon as practicable at the Developer's expense and to provide notice of the relevant dealing number and evidence of such registration to Irish Water immediately following completion of registration **PROVIDED THAT** if requested by Irish Water the Developer shall consent to Irish Water taking over the registration process, and the Developer undertakes and agrees to assist Irish Water with this registration process following written request to do so; and

13.3.2 to specifically include reference and notice of the Deed(s) of Grant of Wayleaves and Easements in favour of Irish Water in any transfers, conveyances, assignment, lease and/or licence which the Developer may have with any third Party.

14. Financial Security Requirements

The necessity for the Developer to put any Required Security in place is specified in Appendix 8 of Connection Offer. In the event that Required Security is specified, the putting in place of the said Required Security shall be a pre-condition to the effectiveness of the Connection Agreement.

15. Assumptions

15.1 The Specification set out in Appendix 5 and the Connection Charge have been completed and assessed (respectively) based on the detail as set out in the Connection Application and the following assumptions:

15.1.1 the information contained in the Connection Application (as set out in Appendix 1B of the Connection Offer) is true accurate and complete in all material respects. If information provided is found to be incorrect or incomplete, the Developer may be invoiced for any additional costs; and

15.1.2 the Connection Charge has been assessed based on a desktop exercise without knowledge of existing utilities at the Development and any existing utilities, rock and other obstructions have not been measured on site. Dealing with such utilities, rock and obstructions may incur increased costs which shall be chargeable to the Developer.

(each an “**Assumption**” and together the “**Assumptions**”)

15.2 Any change in the Assumptions may lead to a change in: (i) the Connection Charge; and/or (ii) the timing of the Connection Works. The Developer acknowledges and agrees that any additional costs arising from such change(s) will be for the account of the Developer and that Irish Water shall not have any liability for the said additional costs. The Developer further acknowledges and agrees that it shall reimburse Irish Water for such additional costs and that, in the event the Developer fails to reimburse Irish Water for its said additional costs, Irish Water shall be entitled to seek deduction of the relevant amount(s) from the Relevant Local Authority Security. The Developer hereby consents to such deduction being made by the Local Authority on Irish Water’s behalf.

16. General Provisions

16.1 The Developer shall:

16.1.1 inform Irish Water, and all Parties acting on its behalf, of any relevant safety precautions before entry to the Development. Since Irish Water will not be aware of the specific hazards present on the Development, the Developer is obliged to inform Irish Water of such hazards. The Developer must ensure that Irish Water, and all Parties acting on its behalf, are either accompanied at all times by the Developer, or have been adequately briefed as to the presence of any specific hazards, the precautions that must be taken and what to do in the event of an accident or emergency;

16.1.2 co-operate with and assist Irish Water, and all Parties acting on its behalf;

- 16.1.3 not unreasonably interfere with or restrict the carrying out of Irish Water's obligations in accordance with the Connection Agreement;
 - 16.1.4 not do or cause or permit to be done anything which causes, or could reasonably be expected to cause, damage or destruction to any part of the Service Connection, the Connection Works or the Network(s) or in any way interferes with its operation or materially interferes with Irish Water's (and all Parties' acting on its behalf) access to same;
 - 16.1.5 be solely responsible at all times for maintaining and keeping excavations and reinstatements on the Development in a safe and secure condition and will indemnify and keep indemnified Irish Water, its servants, agents and contractors against all claims, demands, proceedings, damages and expenses whatsoever in respect thereof;
 - 16.1.6 agree the timing of any works to be carried out by the Developer with Irish Water.
- 16.2 The Developer shall also comply with any other reasonable directions issued by Irish Water to the Developer to ensure compliance with any Applicable Law or for any other reason where Irish Water, acting reasonably, deems it appropriate to issue such directions.
- 16.3 The Developer shall not allow the discharge of rainwater run-off from roofs, paved areas or other surfaces into any Sewer, except as may otherwise be agreed in advance with Irish Water in writing.
- 16.4 Irish Water may specify any technical requirements or standards necessary to minimise the risk of leakage or to protect the integrity of any Waterworks or Wastewater Works.
- 16.5 For the avoidance of doubt, the Developer is prohibited from using the Service Connection and/or using any other mechanism to supply Water Services onwards to another location or premises other than the Premises within the Development notified to Irish Water by the Developer to which the Service Connection applies. Irish Water shall in no way be liable for and shall be indemnified and held harmless by the Developer in respect of any breach of this provision by the Developer or by any other third Party, including any adverse consequences arising directly or indirectly as a result of such a breach and all costs, damages or claims arising therefrom.
- 16.6 The Developer indemnifies and holds harmless Irish Water and its servants, agents and contractors in respect of any loss, damage or injury that may result from the Self-Lay Works.

16.7 During the Term, the Developer shall be solely responsible for preventing any backflow, back syphonage or blowback from the Distribution System(s) of any Premises into the Water Main or Waterworks.

17. Notification for Meter Installation

The Developer is required to give Irish Water seven (7) days advance notification of when a property service connection, boundary box and Distribution System is in place and connected to any Premises that has been constructed and ready for occupation so that Irish Water can advance the provision of a meter in the boundary box. The installation of the meter will be at Irish Water's discretion based on current policy.

18 Register of Premises Serviced

The Developer shall be required under this Connection Agreement to provide Irish Water with a register, on a regular (and at least a quarterly) basis, of the Premises that have been constructed and ready to receive Water Services within the Development in the format provided in Appendix 10 of the Connection Offer. The initial register is to be provided to Irish Water at the pre-construction site meeting. Updates of the register are to be provided to Irish Water at subsequent construction site meetings at the intervals outlined above.

19. Time for Completion/Delays

Both Parties shall use reasonable endeavours to ensure that they perform the obligations under this Connection Agreement in a timely manner. Irish Water shall not be liable for any loss or damage suffered by the Developer in respect of delays resulting from any cause whatsoever.

20. Third Party Losses

The Developer shall indemnify Irish Water and its servants, agents and contractors, and hold Irish Water and its servants, agents and contractors harmless at all times from any and all losses of any third Party incurred, suffered or sustained pursuant to this Connection Agreement, but only to the extent any such loss was not caused by Irish Water's breach of this Connection Agreement or the negligence of Irish Water in undertaking its obligations under this Connection Agreement.

21. Liability

21.1 **Immunity:** Nothing in this Connection Agreement shall affect any immunity that Irish Water benefits from Applicable Law.

21.2 **Death or Personal Injury:** Subject to General Condition 21.1 above, nothing in this Agreement shall exclude or limit the liability of a Party for death or personal injury resulting directly from the negligence of that Party or any of its officers, employees and agents and that Party shall indemnify and keep indemnified the other Party, its officers, employees and agents from and against any losses, damages, claims,

liabilities, costs or expenses which that other Party may suffer or incur by reason of any claim on account of death or personal injury resulting from the negligence of the liable Party or the negligence of any of its officers, employees or agents.

21.3 **Physical Damage:** Subject to the other provisions of this General Condition and except as provided in General Condition 21.2, this General Condition 21.3 and where any other provision of this Connection Agreement provides for an indemnity, neither Party, nor any of its officers, employees or agents shall be liable to the other Party for any losses, damages, claims, liabilities, costs or expenses arising from any breach of this Connection Agreement other than for losses, damages, claims, liabilities, costs or expenses directly resulting from such breach and which at the date hereof were reasonably foreseeable as likely to occur in the ordinary course of events from such breach in respect of:

21.3.1 physical damage being occasioned to the property of the other Party, its officers, employees or agents; or

21.3.2 the liability of the other Party to any other Person for loss in respect of physical damage caused directly to the property of such other Person as a result of such breach.

21.4 **Reasonable and Prudent Operator:** Subject to General Condition 21.2, where the obligations of Irish Water are performed in accordance with the Standard of a Reasonable and Prudent Operator, Irish Water shall have no liability whatsoever to the Developer in respect of this Connection Agreement.

21.5 **Limit of Liability:** Subject to General Condition 21.2, Irish Water's aggregated liability in respect of all such losses, damages, claims, liabilities, costs or expenses pursuant to this Connection Agreement shall not exceed €100,000.

21.6 **No liability for Force Majeure:** Neither Party shall be liable for any breach of this Connection Agreement directly or indirectly caused by Force Majeure.

21.7 **No Liability:** Subject to General Condition 21.2 and any provision of this Connection Agreement which provides for payment obligations, neither Party nor any of its officers, directors, employees or agents shall in any circumstances whatsoever be liable to the other Party for:

21.7.1 any loss of profit, revenue, use, contract (other than this Connection Agreement), opportunity or loss of goodwill; or

21.7.2 any indirect or consequential loss, incidental or special damages (including punitive damages); or

21.7.3 loss resulting from the liability of the other Party to any other Person howsoever and whensoever arising.

21.8 **No implied warranties:** All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Connection Agreement.

21.9 **Taking Over of Legal Claims:** In the event of any third Party claim being made against a Party which is not liable, the Party which is liable shall be promptly notified of the claim and it may at its own expense conduct all negotiations for the settlement of the same, and any litigation that may arise from the claim. The Party which is not liable shall not make any admission which might be prejudicial to the claim. The conduct by the liable Party of such negotiations or litigation shall be conditional upon the liable Party having first given to the Party which is not liable such reasonable security as that Party shall from time to time notify that it requires to cover the amount ascertained or agreed or estimated, as the case may be, of any losses, damages, claims, liabilities, costs or expenses for which that Party may become liable in respect of the claim. The Party which is not liable shall, at the request of the liable Party, afford all reasonable assistance for the purpose of contesting the claim and shall be paid by the liable Party (within ten (10) Business Days of the date of its invoice therefor) all reasonable expenses incurred in so doing.

22. Assignment

The Developer shall not be entitled to assign the benefit or transfer the burden of this Connection Agreement without the prior written consent of Irish Water. Nothing shall prevent Irish Water from assigning the benefit or transferring the burden of this Connection Agreement to an Affiliate.

23. Sub-contractors

Either Party shall have the right to sub-contract or delegate the performance of any of its obligations or duties arising under this Connection Agreement without the prior consent of the other Party. Such subcontracting by Irish Water or the Developer of the performance of any obligations or duties under this Connection Agreement shall be on terms which are standard in the industry and shall not, in any event, relieve Irish Water or the Developer (as the case may be) from any liability for performance of such obligation or duty. The Developer shall remain fully liable for the completion of any works on its behalf pursuant to this Connection Agreement.

24. Developer's Authority

24.1 The Developer represents and warrants to Irish Water that:

- 24.1.1 it has full power and authority to enter into and to exercise its rights and perform its obligations under this Connection Agreement and has obtained all authorisations and consents necessary for it to so enter, exercise rights and perform obligations and such authorisations and consents are in full force and effect;
- 24.1.2 performance of this Connection Agreement will not conflict with or constitute a breach or default under any contract or agreement of any kind to which the Developer is a Party or any judgment, order, statute or regulation which is applicable to the Developer;
- 24.1.3 the obligations expressed to be assumed by it under this Connection Agreement are legal and valid obligations binding on it;
- 24.1.4 all payments to be made by it under this Connection Agreement may be made free and clear of, and without deduction for or on account of, any taxes whatsoever;
- 24.1.5 no representation or warranty made by or on behalf of the Developer and contained in this Connection Agreement and no statement contained in any submission to Irish Water, application, declaration or other instrument made by or on behalf of the Developer in connection with this Connection Agreement contains any false or misleading representation of a material fact, or omits to state a material fact necessary to prevent such statements, in the light of the circumstances under which they are made, from being misleading; and
- 24.1.6 in connection with the negotiation and execution of this Connection Agreement:
 - 24.1.6.1 it is acting as a principal (and not as an agent or in any other capacity, fiduciary or otherwise);
 - 24.1.6.2 it is not relying upon any advice, counsel or representations (whether written or oral) of any other Party other than the representations expressly set out in this Connection Agreement;
 - 24.1.6.3 it has made its own decision regarding the entering into of this Connection Agreement based upon its own judgement and upon the advice from such professional advisers as it has deemed necessary to consult;
 - 24.1.6.4 all of its decisions regarding this Connection Agreement have been the result of arms' length negotiations between the Parties; and
 - 24.1.6.5 it has a full understanding of the terms, conditions and risks (economic and otherwise) of this Connection Agreement, and is capable of assuming and willing to assume (financially and otherwise) those risks.

25. Term & Termination

- 25.1 This Connection Agreement shall commence upon the date that the Developer:

- 25.1.1 completes and returns the Letter of Acceptance;
- 25.1.2 pays the Connection Charge;
- 25.1.3 provides confirmation that the Relevant Local Authority Security has been put in place (together with supporting documents);
- 25.1.4 provides confirmation that any Required Security, as specified in Appendix 8 of the Connection Offer, has been put in place.

To the extent that any of the steps outlined at 25.1.1 – 25.1.4 occur on different days, the Connection Agreement shall commence on the last date on which all the steps have been fully complied with) and shall continue in full force and effect until the issue of the Completion Certificate, unless it is terminated earlier in accordance with the provisions of this Connection Agreement.

- 25.2.1 This Connection Offer is based on a high-level desk top analysis carried out by Irish Water on the feasibility of a connection for the Development. Once the Connection Offer has been accepted by You, Irish Water will begin a detailed design of the connection. If during the process of detailed design Irish Water, at its discretion, forms the opinion (acting reasonably) that either:

- 25.2.1.1 a connection to the Development is not feasible or practicable or safe to complete; or

- 25.2.1.2 a connection to the Development would involve the expenditure by Irish Water of monies in excess of that provided for by way of the Connection Charge,

then the Connection Agreement may be terminated by Irish Water by way of written notice to the Customer.

- 25.2.2 The Developer shall be entitled to terminate this Agreement on 14 days' written notice to Irish Water, provided such notice may not be given if a Conformance Certificate has been issued by Irish Water.

- 25.2.3 In the event that Irish Water or the Developer exercise their right to terminate under this General Condition 25.2, Irish Water shall return any Connection Charge paid by the Developer, less any costs and expenses incurred by Irish Water as at the date of termination, including, but not limited to, costs of construction, and any legal or financing costs.

- 25.3 Either Party shall be entitled to terminate this Connection Agreement upon written notice to the other Party where:

- 25.3.1 there is any material breach by the other Party of its obligations under this Connection Agreement and the breach cannot be remedied or if it is capable of being remedied, it has not been remedied by such Party within 28 days of the issue of a notice to it by the other Party identifying the breach and requiring it to be remedied;
 - 25.3.2 an event of Force Majeure persists for a period of 180 days or more, provided at least 14 days' notice of termination has been given in writing;
 - 25.3.3 the other Party becomes insolvent, unable to pay its debts when they fall due, ceases to trade or goes into liquidation (other than for the purposes of amalgamation or reconstruction) or is dissolved for any reason or has bona fide legal proceedings initiated against it for its winding-up which are not vexatious or incompetent;
 - 25.3.4 in respect of the other Party, any bona fide action or other steps are taken or legal proceedings are started (and are not withdrawn within fourteen (14) days) for the liquidation, winding-up, dissolution or for the appointment of a receiver, liquidator, administrator, examiner or similar officer of such Party;
 - 25.3.5 in respect of the other Party, an encumbrancer takes possession of, or a liquidator, receiver or an administrator or examiner is appointed over a substantial part of the assets of such Party or any security granted by such Party becomes enforceable;
 - 25.3.6 the other Party enters into any composition, assignment, scheme or arrangement with creditors generally of the other Party (other than for the purpose of a voluntary solvent reconstruction or amalgamation);
 - 25.3.7 the other Party is suffering a distress, execution, sequestration or other process being levied or enforced upon or sued or against all or any substantial part of its assets, rights or revenues which is not discharged, stayed, or dismissed within thirty (30) days; or
 - 25.3.8 any event equivalent or analogous to any of the events specified in paragraphs 25.3.3 to 25.3.7 (inclusive) above occurs in relation to the other Party in any jurisdiction.
- 25.4 Termination of this Connection Agreement shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either Party under this Connection Agreement.
- 25.5 Without prejudice to General Condition 25.4 and any other provision of this Connection Agreement that survives termination, the following obligations of the Parties to this Connection Agreement shall continue in full force and effect and be fully binding on the Parties notwithstanding termination:

General Condition 4 (Order Of Precedence);
 General Condition 10 (Connection Charge);
 General Condition 11.11 (Insurance);
 General Condition 12 (Ownership);
 General Condition 13 (Title, Warranty and Registration, Wayleaves and Easements);
 General Condition 16 (General Provisions);
 General Condition 20 (Third Party Losses)
 General Condition 21 (Liability);
 General Condition 25 (Term And Termination);
 General Condition 28 (Data Protection);
 General Condition 32 (Entire Agreement);
 General Condition 35 (Governing Law);
 General Condition 36 (Disputes).

26. Notices

- 26.1 Notices or other communications given pursuant to this Connection Agreement shall be in writing and shall be sufficiently given if delivered by hand or sent by e-mail or pre-paid registered post to the e-mail or postal address referred to below of the Party to which the notice or communication is being given or to such other address and as such Party shall communicate in writing from time to time to the Party giving the notice or communication.
- 26.2 The Developer's address for service is as set out in the Connection Offer.
- 26.3 Any notice required or permitted to be given by the Developer shall be in writing addressed to Maria O'Dwyer, Connections and Developer Services Manager, at Irish Water, PO Box 860, South City Delivery Office, Cork City or by email to newconnections@water.ie or such other address or electronic mail address as may be notified to the Developer by Irish Water from time to time.
- 26.4 Every notice given in accordance shall be deemed to have been received as follows:

| Means of Dispatch | Deemed Received |
|-------------------|---|
| Hand Delivery | The time of delivery. |
| Post | 48 hours after posting (and proof that the envelope containing the notice or communication was properly addressed and sent by pre-paid registered post will be sufficient evidence that the notice or other communication has been duly served or given). |
| Email | Upon receipt by the addressee of the complete text in legible form. |

provided that if, in accordance with the above provisions, any such notice or other communication would otherwise be deemed to be given or made outside working hours

(being 9am to 5.30pm on a Business Day) such notice or other communication shall be deemed to be given or made at the start of working hours on the next Business Day.

27. Health & Safety

27.1 It is acknowledged and agreed that the works carried out for, or on behalf of, the Developer in relation to the Water & Wastewater Services Infrastructure are entirely separate and distinct to the Connection Works carried out for and on behalf of Irish Water. The Developer shall ensure full compliance with all applicable health and safety legislation including, if necessary and applicable, the Safety, Health and Welfare at Work (Construction) Regulations 2013 (the “**SHW Regulations**”) in respect of the works to the Water & Wastewater Services Infrastructure. The Developer acknowledges that it may have certain obligations under the SHW Regulations in relation to the construction of the Water & Wastewater Services Infrastructure and, as such, will ensure full compliance with those obligations. Irish Water shall ensure full compliance with all applicable health and safety legislation including, if necessary and applicable, the SHW Regulations in respect of the Connection Works. Irish Water acknowledges that it may have certain obligations under the SHW Regulations in relation to the Connection Works and, as such, will ensure full compliance with those obligations.

27.2 Project Supervisor Construction Stage (“PSCS”) and Project Supervisor Design Process (“PSDP”)

The Developer elects to be treated for the purposes of the SHW Regulations as the only client (and Irish Water agrees with such election by the Developer) in respect of the Water & Wastewater Services Infrastructure. The Developer accepts and understands its duties and responsibilities pursuant to the SHW Regulations including its obligation as a client to appoint a PSCS and PSDP in respect of the Water & Wastewater Services Infrastructure and to ensure that the relevant appointees have adequate insurance in place to cover the duties being undertaken by them.

28. Data Protection

28.1 If and to the extent personal data is processed (as such terms are defined in the Data Protection Legislation) pursuant to this Connection Agreement, the provisions of Appendix 2C shall apply.

29. No Waiver: No forbearance, indulgence or relaxation on the part of a Party shown or granted to the other Party shall in any way affect, diminish, restrict or prejudice the rights or powers of Irish Water or operate as or be deemed to be a waiver of any breach of conditions. None of the provisions of this Connection Agreement shall be considered waived by a Party unless such waiver is given in writing and signed by a duly authorised representative of the Party making the waiver. No such waiver shall be a waiver of any past or future default or breach nor shall such waiver constitute a modification of any term provision condition or covenant of the contract unless expressly so provided in such waiver.

- 30. Severability:** All of the provisions contained in this Connection Agreement are distinct and severable, and if any provision is held or declared to be unenforceable, illegal or void in the whole or in part by any court, regulatory authority or other Competent Authority it will, to that extent only, be deemed not to form part of this Connection Agreement and the enforceability, legality and validity of the remainder of these terms and conditions will not in any event be affected.
- 31. Force Majeure:** If either Party is by reason of Force Majeure rendered unable wholly or in part to carry out its obligations under this Connection Agreement, then upon notice in writing of such Force Majeure from the Party affected to the other Party, as soon as possible after the occurrence of the cause relied on, the Party affected shall be released from its obligations (other than the obligations to pay money) and suspended from the exercise of its rights under the Connection Agreement to the extent to which they are affected by the circumstances of Force Majeure and for the period during which those circumstances exist PROVIDED THAT the Party affected shall use all reasonable endeavours to prevent, avoid, overcome or mitigate the effects of such Force Majeure.
- 32. Entire Agreement**
- 32.1 This Connection Agreement shall be the entire agreement between the Parties with respect to the subject matter and expressly excludes any warranty, condition or other undertaking implied at law or by custom and supersedes all previous agreements and understandings between the Parties (other than as provided for in this Connection Agreement) with respect to its subject matter.
- 32.2 The Developer acknowledges and confirms that it does not enter into this Connection Agreement in reliance on any representation, any misrepresentation, warranty or other undertaking by Irish Water not fully reflected in this Connection Agreement.
- 33. Amendments:** This Connection Agreement may only be amended by written agreement of the Parties.
- 34. No Derogation from Statutory Responsibilities**
- The Developer acknowledges and accepts:
- 34.1 its obligations and duties under the Water Services Acts in relation to the protection of human health, repair of leaks and the reasonable conservation of water and the management, consumption and use of water on or at the Development to ensure that water is not wasted or consumed in excessive amounts;
- 34.2 that notwithstanding this Connection Agreement, Irish Water is not limited from exercising its powers under the Water Services Acts in relation to the Developer;
- 34.3 that the Premises Pipe Work (in terms of ownership, maintenance, repair, renewal or otherwise) will remain the sole responsibility of the Developer or any third Party owner of those Premises unless ownership is transferred to Irish Water.

- 35. Governing Law:** The Connection Agreement shall be governed and construed in accordance with the laws of Ireland and, subject to General Condition 36, the courts of Ireland shall have exclusive jurisdiction to decide disputes arising between the Developer and Irish Water.
- 36. Dispute Resolution**
- 36.1 Notification of a Dispute:** Any dispute between the Parties (a “Dispute”) shall be resolved, if possible, by negotiation. In the event that no agreement is reached within fifteen (15) days of the date on which either Party first notified the other Party that a Dispute exists, either Party shall have the right to have the Dispute determined in accordance with General Condition 36.2.
- 36.2 Mediation:** The mediator is to be appointed by agreement between the Parties and, in the absence of agreement within five (5) working days of the receipt by one Party of a written notice to concur in the appointment of a mediator, by the Mediators’ Institute of Ireland (“MI”). The mediation will be in Dublin and the costs of the mediation shall be shared equally between the Parties. In the event that the matter is not resolved within twenty eight (28) days of the mediator being appointed (or such longer period as may be agreed in writing between the Parties), then either Party may (but for the avoidance of doubt not be obliged to do so) commence court proceedings for the determination of the Dispute in question.
- 36.3 Construction Contracts Act 2013:** If any payment dispute arises under this Connection Agreement, notwithstanding any other provision of this General Condition 36, either Party may refer it to adjudication at any time and the provisions of the Construction Contracts Act 2013 shall apply.
- 36.4 Performance to Continue During Dispute:** Insofar as practicable, the Parties shall continue to implement the terms of this Connection Agreement notwithstanding the initiation of mediation or Court proceedings and pending the outcome of any Dispute. No payment due to or payable by Irish Water or the Developer shall be withheld on account of a pending reference to the dispute resolution mechanism except to the extent that such payment is the subject of the Dispute. However, Irish Water shall not be obliged to carry out the Connection Works unless it is in receipt of the Connection Charge.
- 36.5 Survival:** The provisions of General Condition 36.2 and 36.3 shall continue after the termination of this Connection Agreement where notice of the existence of the Dispute was given under General Condition 36.1 prior to termination. Nothing in this Connection Agreement is intended to prejudice the referral of a dispute to the Commission for Regulation of Utilities for determination in accordance with Irish Water’s Customer Handbook.

37. NEW INDUSTRY STRUCTURE AND INDUSTRY REGIME

- 37.1 If, after execution of this Connection Agreement, there shall be enacted and brought into force any Legal Requirement for:
- 37.1.1 the further reorganisation of the water industry in Ireland or any material part of it;
 - 37.1.2 the further facilitation of the introduction of third party interests into the affairs of the water industry in Ireland or any part of it; or
 - 37.1.3 the amendment or variation of any policy of Irish Water or the manner in which the Network(s) and any agreements or protocols related thereto are organised;

which necessitates a variation to this Connection Agreement, the Parties shall effect such changes as are reasonably necessary so as to ensure that the operations contemplated by this Connection Agreement shall be conducted in a manner which is consistent with the effect of the new Legal Requirement and most closely reflects the intentions of the same with effect from the date thereof provided that any such amendment will be of no greater extent than is required by reason of the same.

- 37.2 If any variation proposed under General Condition 37.1 has not been agreed by the Parties within three (3) months of it being proposed (the Parties acting as soon as reasonably practicable), either Party may refer to the Commission for Regulation of Utilities for determination and the Parties agree to abide by and to give effect to the Commission's determination, if necessary by entering into an agreement supplemental to this Connection Agreement.
- 37.3 Such changes shall have effect upon the date upon which the Legal Requirement in question is brought into force with such transitional arrangements as shall be reasonable and as are in compliance with the new legislation, directive, rule, regulation, direction, statutory instrument or order, referred to in General Condition 37.1.

General Conditions for a Self-Lay Connection

IRISH WATER

**General Conditions for a Self-Lay Connection
(Version 0.1) (August 2018)**

General Conditions for a Self-lay Connection (the “General Conditions”)

1. Definitions: In these General Conditions the following definitions apply:

“Affiliate” of a Person means any subsidiary or holding company (within the meaning given to such expressions by the Companies Act 2014) of such Person or any subsidiary of any such holding company;

“Applicable Law” means all Acts of the Oireachtas, statutory instruments, regulations, orders and other legislative provisions which in any way relate to the Connection Agreement, including the Water Services Acts, the Building Regulations, the Construction Regulations and any code or guidance as may be issued from time to time by any Regulator or relevant industry authority. Any reference to “Applicable Law” or any enactment or statutory provision is a reference to it as it may have been, or may from time to time be amended, modified, consolidated or re- enacted;

“Building Regulations” mean the Building Control Acts 1990 to 2014 and all subordinate legislation and regulations made pursuant to the said Acts including, without limitation the Building Control Regulations 1997 to 2015, the Building Regulations 1997 to 2017 and relevant codes of practice, and any amendment, update or replacement or repeal thereof;

“Business Day” means every day other than a Saturday or Sunday or bank or public holiday in Ireland;

“Competent Authority” means any local or national or supra-national agency, authority, department, inspectorate, ministry, official or public or statutory Person (whether autonomous or not) or regulatory authority of Ireland or of the European Union which has jurisdiction over any of the Parties to the Connection Agreement and the subject matter of the Connection Agreement, including the Commission for Regulation of Utilities but excluding a court or tribunal of competent jurisdiction;

“Completion Certificate” means a written certificate in the form specified in Appendix 2B, Part 1 of these General Conditions, provided by Irish Water to the Developer pursuant to General Condition 11.19;

“Conformance Certificate” means a written certificate in the form specified in Appendix 2B, Part 2 of these General Conditions provided by Irish Water to the Developer pursuant to General Condition 11.15;

“Connection Agreement” means the agreement between the Developer and Irish Water to facilitate the connection of the Water & Wastewater Services Infrastructure to the Network(s), which shall be comprised of the Connection Offer (including the appendices thereto), the General Conditions and the Specific Conditions (if any);

“Connection Application” means the application submitted by the Developer to Irish Water in relation to the Service Connection(s), as set out in Appendix 1B of the Connection Offer;

“Connection Charge” means the charge for connecting to the Network(s) as specified in the Connection Offer. The Connection Charge shall only be deemed paid when funds have cleared in Irish Water’s bank account;

“Connection Facilities” means the facilities (including the Service Connection(s)) required to be constructed and/or upgraded and installed by Irish Water in order to connect the Water & Wastewater Services Infrastructure to the Network(s);

“Connection Offer” means the conditional offer letter issued by Irish Water to the Developer relating to the connection of the Water & Wastewater Services Infrastructure to the Network(s) and which forms part of the Connection Agreement;

“Connection Point(s)” means the location or locations to be determined by Irish Water (which shall be at the boundary to the curtilage of the Development) at which the Water & Wastewater Services Infrastructure is to be connected to the Waterworks (where, as specified in the Connection Offer, the Developer requires connection to the Waterworks) or the Wastewater Works (where, as specified in the Connection Offer, the Developer requires connection to the Wastewater Works) (via the Service Connection(s)). Connection Points may differ for Waterworks and Wastewater Works;

“Connection Works” means the permanent and temporary works and services to be performed by or on behalf of Irish Water in the acquisition, design, procurement, construction, and installation of the Connection Facilities, and the obtaining of permits, and the tie-in and commissioning of a Connection Point(s) in accordance with the requirements of this Connection Agreement;

“Construction Regulations” means the Safety Health and Welfare at Work Act 2005, the Safety Health and Welfare at Work (General Application) Regulations 2007 to 2016 as amended, the Safety Health and Welfare at Work (Construction) Regulations 2013 as amended and any guidance requirements issued from time to time from the Health and Safety Authority;

“Data Protection Legislation” means the Data Protection Acts 1988-2018, where applicable, as amended from time to time and any regulations or enactments thereunder, Regulation (EU) 2016/679 (the “General Data Protection Regulation” or “GDPR”) and all Irish and European Union (with direct effect) laws and regulations relating to processing of personal data and privacy for the time being in force in Ireland.

“Deed(s) of Grant of Wayleaves and Easements” means the Deed(s) of Grant of Wayleaves and Easements referred to in General Condition 13 hereof;

“Defects Liability Period” which means a period of 12 months from the date of the Conformance Certificate or 12 months after the Developer’s connection of the water service connection and boundary box to the last Premises in the Development, whichever is the

later, (save where such period is extended by Irish Water), as referred to in General Condition 11.15;

“Developer” means the person or entity to whom the Connection Offer is addressed and who has entered into the Connection Agreement with Irish Water;

“Development” means the housing or housing/mixed use development located at the address set out in the Connection Offer and identified in the map set out in the Specification, including the Premises, the Water & Wastewater Services Infrastructure to be constructed pursuant to this Connection Agreement and all ancillary infrastructure relating thereto;

“Dispute” means a difference or dispute between the Parties arising out of or in connection with this Connection Agreement;

“Distribution System” means a pipe and its related fittings, that is used or to be used as the case may be to convey water into or through one or more Premises (including any related internal or external taps) excluding a Service Connection;

“Drain” means a drainage pipe, or system of such pipes and related fittings for collection of Wastewater, that is not owned by, vested in or controlled by Irish Water, and that is not a Service Connection, which is used or to be used as the case may be, to convey Wastewater from one or more Premises or to any wastewater treatment system on a Premises where the Wastewater is generated;

“Environment” means the environment generally, including all physical, biological and ecological aspects of the environment and:

- (a) air, including that within buildings or natural or man-made structures above or below ground;
- (b) water, including the open sea, coastal or inland waters, ground waters, aquifers, drains and sewers;
- (c) land, including the seabed or riverbed under any water as described above, and any surface land and sub-surface land; and
- (d) human and animal health, and plant life;

“Environmental Law” means any statute or common law, or other requirement having the effect of law, in Ireland relating to the Environment, including without limitation the provisions of the Water Services Acts and Local Government (Water Pollution) Acts 1977 to 2007;

“Environmental Protection Agency” means the Environmental Protection Agency established pursuant to the Environmental Protection Agency Act, 1992;

“Final Documents” shall be as defined in the Code of Practice for Wastewater Infrastructure and outlined at General Condition 1.8 thereof (where connection is made to the Wastewater Works) and/or the Code of Practice for Water Infrastructure and outlined at General Condition 1.7 thereof (where connection is made to the Waterworks), as applicable. Both Codes are included in Appendix 6 to the Connection Offer which forms part of this Connection Agreement;

“Force Majeure” means any event not within the reasonable control of a Party and which could not have been prevented or the consequences of which could not have been prevented by a Party acting and having acted as a Reasonable and Prudent Operator/Person and which has the effect of preventing a Party from complying with its obligations under this Connection Agreement, including:

- acts of terrorists;
- war declared or undeclared, blockade, protest, revolution, riot, insurrection, civil commotion, invasion or armed conflict;
- sabotage or acts of vandalism, criminal damage or the threat of such acts;
- extreme weather or environmental conditions including drought, extreme storms, lightning, fire, landslip, accumulation of snow or ice, natural disasters, and phenomena including meteorites, the occurrence of pressure waves caused by aircraft or other aerial devices travelling at supersonic speeds, impact by aircraft, volcanic eruption, explosion including nuclear explosion, radioactive or chemical contamination or ionising radiation;
- any change of legislation, governmental order, restraint or directive having the effect of preventing or delaying the performance of any obligation hereunder;
- a strike or any other form of industrial actions by persons employed by the affected Party or by any local authority or by any contractor, subcontractor or agent of the affected Party;
- any strike which is part of a labour dispute of a national character occurring in Ireland or elsewhere;
- the act or omission of any contractor, subcontractor or supplier of either Party but only if due to an event which, but for the contractor, subcontractor or supplier not being a Party to the Connection Agreement, would have been Force Majeure;
- an outbreak of foot and mouth or any other restrictions put in place as part of a strategy to contain a communicable disease in Ireland; and
- the collapse of the euro currency;

provided that the following shall not constitute Force Majeure:

- lack of funds and/or the inability of a Party to pay;
- mechanical or electrical breakdown or failure of machinery or plant owned or operated by either Party other than as a result of the circumstances identified above; and
- any of the events referred to in General Condition 37 that result in modification of this Connection Agreement;

“Irish Water” means Irish Water (Uisce Éireann) a designated activity company incorporated in Ireland (company registration number 530363) and having its registered office at 24-26 Talbot Street, Dublin 1;

“Letter of Acceptance” means the letter issued by the Developer to Irish Water confirming its acceptance of Irish Water’s Connection Offer, the form of which is appended to the Connection Offer at Appendix 1A;

“Local Authority” means the relevant local authority referred to in the Connection Offer;

“Legal Requirement” means any Applicable Law, legislation or directive, regulation, requirement, instruction, direction or rule of any Competent Authority binding on either or all of the Parties to this Connection Agreement and includes any modification, extension or replacement thereof in force during the Term;

“Network(s)” means the Waterworks and/or the Wastewater Works, as applicable and specified on the face of the Connection Offer, and any related lands, which are owned by, vested in, controlled or used by Irish Water;

“PRA Compliant Map” means ordinance survey plans, suitable for registration of any Deed of Grant of Wayleaves and Easements relating to property intended to be taken in charge by the Local Authority and the Water & Wastewater Services Infrastructure to be vested in Irish Water together with all easements relating thereto suitably identified by the relevant symbols and/or colours designated by the Property Registration Authority.

“Premises” means any premises within the Development which are specified or referred to in the Connection Offer, including any part of any public or private building, vessel, vehicle, structure or land (whether or not there are structures on the land and whether or not the land is covered with water), and any plant or related accessories on or under such land, or any hereditament of tenure, together with any out-buildings and curtilage and which is:

- to receive Water Services; or
- specified in the Connection Application; or
- a premises deemed to be a premises by Irish Water; or

- such other premises as may be notified by the Developer to Irish Water and accepted in writing by Irish Water from time to time,

but does not include land which is a Public Road, a road which is the subject of an order under Section 11 of the Roads Act 1993 or a road which has been taken in charge by a local authority pursuant to a non-statutory local authority taking in charge scheme;

“Premises Pipe Work” means the pipe, related fittings and associated accessories to be laid by the Developer within the boundary of a Premises in accordance with Relevant Standards, Requisite Consents and Applicable Laws and the Distribution System (if connecting to the Waterworks) and Drains (if connecting to the Wastewater Works), to be used to connect the Premises with the Water & Wastewater Services Infrastructure;

“Public Road” means a road over which a public right of way exists and the responsibility for the maintenance of which rests with a road authority;

“Reasonable and Prudent Operator(/Person)” means a person acting in good faith with the intention of performing its contractual obligations hereunder and in so doing and who in the general conduct of its undertaking exercises that degree of skill, prudence and foresight which would reasonably and ordinarily be exercised by a skilled and experienced operator complying with Applicable Law engaged in the same type of undertaking under the same or similar circumstances and conditions and the expression **“Standard of a Reasonable and Prudent Operator(/Person)”** shall be construed accordingly;

“Regulator” means where applicable all present and future regulatory bodies having jurisdiction over Irish Water including, but not limited to, the Commission for Regulation of Utilities, the Environmental Protection Agency, the Minister of Housing, Planning and Local Government, the Office of the Data Protection Commissioner, the Competition and Consumer Protection Commission and/or any other statutory body or regulatory authority which regulates on an on-going basis or from time to time the business or operations of Irish Water;

“Relevant Local Authority Security” means, as applicable, the bond required to be put in place or, alternatively, the cash lodgement to be made by the Developer in connection with the permission granted by the Local Authority for the Development;

“Relevant Standards” means the Codes of Practice and Standard Details set out in Appendix 6 to the Connection Offer;

“Required Security” means the financial security required by Irish Water, as specified in Appendix 8 of the Connection Offer;

“Requisite Consents” means all necessary permissions, consents, approvals, licenses, easements, certificates and permits as may be necessary for the Developer to lawfully commence, carry out, maintain and complete its obligations pursuant to this Connection Agreement;

“Service Connection” means a water supply pipe or drainage pipe, together with any accessories and related fittings, extending from a Waterworks (where, as specified in the Connection Offer, the Developer requires connection to the Waterworks) or Wastewater Works (where, as specified in the Connection Offer, the Developer requires connection to the Wastewater Works) to the outer edge of the boundary to the curtilage of the Development and used, or to be used as the case may be, for the purpose of connecting the Water & Wastewater Service Infrastructure in the Development with the Waterworks and/or Wastewater Works (as the case may be);

“Self-Lay Works” means all works to be carried out by the Developer in connection with the construction of the Water & Wastewater Services Infrastructure, the Premises Pipe Work (which includes the Distribution System and the Drains) and any related works required to provide Water Services to the Premises within the Development, including:

- (a) the provision, installation, testing and commissioning of the Water & Wastewater Services Infrastructure within the boundary of the Development; and
- (b) the provision, installation, testing and commissioning of the Premises Pipe Work within the boundary to the curtilage of the Premises necessary to connect the Premises, Distribution System (if connection is to Waterworks) and Drain(s) (if connection is to Wastewater Works) to the Water & Wastewater Services Infrastructure.

These works shall be approximately in the position and at the levels indicated on drawing or drawings in the Specification and in accordance with the design that has been submitted with the Connection Application.

“Specification” means Irish Water’s specification for the Water & Wastewater Services Infrastructure as set out in Appendix 5 to the Connection Offer;

“Sewage” and **“Sewage Effluent”** have the meanings assigned to them by the Local Government (Water Pollution) Acts 1977 to 2007;

“Sewers” means sewers of every description, excluding Storm Water Sewers, owned by, vested in or controlled by Irish Water, but does not include a Drain or Service Connection;

“Special Conditions” means any special conditions attached to the Connection Offer or as may be agreed from time to time;

“Storm Water” means run-off rainwater that enters any pipe;

“Storm Water Sewer” means any pipe or other conduit (a) used solely for the conveyance of Storm Water; or (b) designed or intended to be used for the conveyance of Storm Water (whether or not it is connected to a sewer by a ‘storm water overflow’ within the meaning of the Waste Water Discharge (Authorisation) Regulations 2007;

“Term” means the term of this Connection Agreement as provided for in General Condition 25.1;

“Wastewater” means Sewage or other Sewage Effluent discharged, or to be discharged, to a Drain, Service Connection or Sewer but does not include Storm Water;

“Wastewater Works” means Sewers and their accessories, and all other associated physical elements used for collection, storage, measurement or treatment of Wastewater, and any related lands, which are owned by, vested in, controlled or used by Irish Water;

“Water & Wastewater Services Infrastructure” means (where according to the Connection Offer connection is to be made to the Waterworks) the water supply pipework and/or (where according to the Connection Offer connection is to be made to the Wastewater Works) the Wastewater collection pipework and all related fixtures, fittings and accessories to be constructed and laid by the Developer within the Development, as applicable, pursuant to this Connection Agreement, including all connections and pipework extending to the outer boundary of any individual Premises but excluding any Premises Pipe Work;

“Water Main” means water supply pipes owned by, vested in or controlled by Irish Water but does not include pipes, fittings and appliances to which the terms "Service Connection" or "Distribution System" apply;

“Water Services” means all services, including the provision of water intended for human consumption, which provide storage, measurement, treatment or distribution of surface water, ground water, and/or Wastewater collection, storage, measurement, treatment or disposal;

“Water Services Acts” means the Water Services Acts 2007 to 2017; and

“Waterworks” means water sources, Water Mains and their accessories, and all other associated physical elements used for the abstraction, treatment, storage, measurement or distribution of water, and any related land, which are owned by, vested in, controlled or used by Irish Water.

2. Interpretation: Unless the context otherwise requires, any reference in this Connection Agreement to:

- 2.1 any gender includes the other;
- 2.2 a statute, bye laws, regulation, delegated legislation or order is to the same as amended, modified or replaced from time to time and to any bye law, regulation, delegated legislation or order made thereunder;
- 2.3 any agreement, instrument or code is to the same as amended, novated, modified, supplemented or replaced from time to time;

- 2.4 unless otherwise specified any reference in this Connection Agreement to a "General Condition"/"GC" or "Special Condition"/"SC" is a reference to a General Condition or Special Condition in this Connection Agreement;
- 2.5 **"including"** means comprising but not by way of limitation to any event, class, list or category;
- 2.6 a **"Person"** shall be construed as a reference to any natural or legal person, firm, company, corporation, Government or Agency of a State or any association or partnership (whether or not having separate legal personality). A Person includes that person's legal or personal representative, permitted assigns and successors;
- 2.7 **"Party"** means a Party to this Connection Agreement and **"Parties"** shall be construed accordingly;
- 2.8 the singular shall include the plural and vice versa;
- 2.9 words not otherwise defined that have well-known and generally acceptable technical or trade meanings in the water industry are used in this Connection Agreement in accordance with such recognised meanings;
- 2.10 where a word or expression is defined in this Agreement, related words and expressions shall be construed accordingly;
- 2.11 headings are for ease of reference only and shall not affect its construction;
- 2.12 time shall be construed by reference to whatever time is applicable in Ireland;
- 2.13 where a Party is required to use **"all reasonable endeavours"** that Party should explore all avenues reasonably open to it, and explore them all to the extent reasonable, but the Party is neither obliged to disregard its own commercial interests, nor required to continue trying to comply if it is clear that all further efforts would be futile; and
- 2.14 references to the "Commission for Regulation of Utilities" shall include any Competent Authority which may replace or succeed the Commission and assume its functions in relation to the regulation of the water industry in Ireland.
- 3. Defined Terms in Connection Offer:** Terms which appear in uppercase in these General Conditions which are not otherwise defined shall have the meaning given to them in the Connection Offer.
- 4. Order of Precedence:** In the event of inconsistency or conflict between the Connection Offer, the General Conditions and the Special Conditions, the following order of precedence will apply: (1) Special Conditions (2) General Conditions (3) Connection Offer (and the remaining appendices thereto).

5. **Regulated Entity:** Irish Water operates within a regulatory framework governed by the Regulators.
6. **New Connection:** Irish Water shall charge and the Developer has agreed to pay in full the Connection Charge notified to the Developer in the Connection Offer. Following payment by the Developer and satisfaction of all other conditions set out in the Connection Offer, Irish Water shall perform or procure a third Party to perform its obligations under the Connection Agreement and the Developer shall perform its obligations under the Connection Agreement.
7. **Sub-contractors/Agents:** The Developer acknowledges that Irish Water may sub-contract or engage an agent to perform certain of the obligations of Irish Water pursuant to the Connection Agreement, in which case Irish Water shall not be relieved of any obligation or liability with respect to its rights or obligations under the Connection Agreement. The Developer shall have no recourse to any such third Party; the Developer's sole recourse shall be to Irish Water in accordance with the Connection Agreement.
8. **Rights and obligations under law.** Nothing in this Connection Agreement shall affect or prejudice any rights, duties or obligations of the Parties under Applicable Laws.
9. **Principal Obligations:**
 - 9.1 Provided the Developer carries out the Self-Lay Works in accordance with this Connection Agreement, Irish Water will carry out the Connection Works, or procure a third Party to carry out the Connection Works, to facilitate the connection of the Water & Wastewater Services Infrastructure to the Waterworks and/or Wastewater Works (as specified in the Connection Offer).
 - 9.2 Irish Water shall perform its obligations under the Connection Agreement in accordance with the Standard of a Reasonable and Prudent Operator and the terms and conditions of this Connection Agreement.
 - 9.3 The Developer warrants that it shall:
 - 9.3.1 carry out its obligations hereunder in a good and workmanlike manner to facilitate the connection of the Water & Wastewater Services Infrastructure to the Waterworks and/or Wastewater Works (as the case may be and as specified in the Connection Offer);
 - 9.3.2 proceed with its obligations hereunder diligently and in accordance with the programme agreed for the works with Irish Water;
 - 9.3.3 comply with all Relevant Standards and Applicable Laws and obtain and comply with the Requisite Consents;
 - 9.3.4 if required by Irish Water in the Connection Offer, acquire all rights for the laying of any Irish Water pipes forming part of the Connection Facilities; and
 - 9.3.5 comply with all requirements and conditions made or imposed in or as a

condition to the granting of any of the Requisite Consents, including but not limited to discharging all financial contributions, bonds, levies, licence fees, payments and deposits contained in, or required to obtain the, Requisite Consents.

10. Connection Charge:

10.1 The Developer shall, as a pre-condition to the effectiveness of the Connection Agreement, make payment to Irish Water of the Connection Charge set out in the Connection Offer.

11. Self-Lay Works

11.1 Based on the information provided in the Connection Application, Irish Water has drawn up the Specification for the Water & Wastewater Services Infrastructure. The Specification identifies the Connection Point(s) and sets out that the Water & Wastewater Services Infrastructure shall be constructed at the Development in accordance with the Relevant Standards.

11.2 The Developer shall have submitted for approval in advance of the making of a Connection Application to Irish Water the information contained in Section 2.3 (Design Submission) of the Code of Practice for Water Infrastructure and the Code of Practice for Wastewater Infrastructure (both appended to the Connection Offer) and this will form the basis of the Specification for the approved Water & Wastewater Service Infrastructure.

11.3 The Developer must comply with the following conditions prior to the commencement of the Self-Lay Works:

11.3.1 a Commencement Notice (a form of which may be found on the USB appended to the Connection Offer) must be submitted to Irish Water at developerscheduling@water.ie at least fourteen (14) days in advance of commencement of the Self-Lay Works; and

11.3.2 a pre-construction site meeting must be held with Irish Water in order to agree a start date, programme of works and arrangements for inspections by or on behalf of Irish Water. The Developer should email developerscheduling@water.ie at least ten (10) days in advance of the proposed meeting to agree a date and time for the pre-construction meeting with Irish Water.

Any failure by the Developer to adhere to the conditions stipulated in this General Condition may result in delays to the commencement of the Self-Lay Works.

11.4 The Developer shall carry out the Self-Lay Works and construct the Water & Wastewater Services Infrastructure at its own expense and in full compliance with:

- 11.4.1 the Specification;
 - 11.4.2 the programme, method statement(s), construction practices, inspection arrangements and risk assessments that are agreed as part of the pre-construction site meeting, referred to in General Condition 11.3 above;
 - 11.4.3 the design agreed with Irish Water;
 - 11.4.4 the Relevant Standards;
 - 11.4.5 Applicable Laws, including, without limitation, Environmental Law;
 - 11.4.6 the Requisite Consents;
 - 11.4.7 this Connection Agreement (including, for the avoidance of doubt, the Connection Offer and the documents appended thereto).
- 11.5 The Developer agrees that only Irish Water or its agent(s) is permitted to carry out the Connection Works and the Developer shall ensure that no flows shall pass through the Water & Wastewater Services Infrastructure unless and until Irish Water agrees otherwise.
- 11.6 The Developer shall arrange for Irish Water and its agents and contractors to have safe, free and unrestricted access at all reasonable times to the areas where the Self-Lay Works relating to the Water & Wastewater Services Infrastructure are being carried out so as to undertake quality assurance activities in accordance with the 'Quality Assurance Regime' set out in Appendix 9 of the Connection Offer and/or to complete the Connection Works.
- 11.7 Irish Water (including its agents and contractors) shall have the right at all times to enter upon and temporarily occupy so much of the area where such works referred to above are being carried out as may be reasonably required for completing any works incidental to the Connection Works and Irish Water may break open or otherwise interfere with such areas so far as may be reasonably necessary for the purposes aforesaid or for the purpose of carrying out the Connection Work(s) or for making plans, surveying, measuring, taking levels, examining, inspecting, maintaining, altering, repairing, renewing or removing any pipe. Irish Water (including its agents and contractors) shall also have the right at all times to enter upon and temporarily occupy so much of the area as may be required in order to inspect the Water & Wastewater Services Infrastructure, observe the carrying out of the Self-Lay Works, as outlined in the 'Quality Assurance Regime' in set out in Appendix 9 of the Connection Offer or rectify defects in the Water & Wastewater Services Infrastructure.
- 11.8 To agree any changes in the Specification, or to discuss proposals to rectify any notified defects, the Developer (or a contractor on behalf of the Developer) must give a minimum of five (5) days (excluding Saturdays, Sundays and public/bank holidays) notice in writing to Irish Water (or such shorter period as Irish Water may agree). A meeting involving the Developer, the contractor (if applicable) and Irish Water must then be held and Irish Water's written consent must be obtained by the Developer before any change to the Specification is commenced.

- 11.9 The Developer shall ensure that all operations necessary to carry out the Self-Lay Works shall be carried on so as not to interfere unnecessarily or improperly with public convenience or access to or use or occupation of public or private roads and footpaths and the Developer shall indemnify Irish Water in respect of all claims, demands, proceedings, damages, costs, charges and expenses whatsoever and howsoever arising out of or in relation to any such matters.
- 11.10 The Developer shall ensure that the Self-Lay Works shall be carried out without unreasonable noise, odour(s) and/or disturbance. The Developer shall indemnify Irish Water from and against any liability for damages on account of noise, odour(s) or other disturbance created while carrying out the Self-Lay Works and from and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in regard or in relation to such liability.
- 11.11 The Developer shall ensure that the following minimum insurance cover is in place throughout the Term and until (a) a Completion Certificate is issued by Irish Water and tie-in occurs (in the case of insurances listed at General Condition 11.11.1 to 11.11.4 below; and (b) the sixth anniversary of the date of the Completion Certificate, in the case of professional indemnity insurance (General Condition 11.11.5 below):
- 11.11.1 **Employers Liability** insurance cover with a minimum indemnity limit of €13,000,000 any one accident/occurrence and unlimited in the aggregate;
 - 11.11.2 **Public/Products/Pollution Liability** insurance cover with a minimum indemnity limit of €6,500,000 any one accident/occurrence unlimited in the period of insurance under the Public Liability and in the aggregate in respect of Products & Pollution Liability;
 - 11.11.3 **Contractors "All Risks"** insurance for the full reinstatement value of the proposed works in respect of any one claim;
 - 11.11.4 **Motor insurance** cover with a minimum third Party property damage limit of €5,000,000 for all vehicles owned, leased, rented or run by the Developer (including any Contractor(s) or agents) in connection with the services to be provided by it; and
 - 11.11.5 **Professional Indemnity** insurance with a minimum indemnity limit of €2,600,000 in respect of any one claim and unlimited in the aggregate.
- Insurance cover effected pursuant to this General Condition shall, with the exception of Professional Indemnity and Motor, include a specific indemnity to Irish Water.
- 11.12 The Developer shall, in advance of commencing any works, provide to Irish Water:
- 11.12.1 confirmation in writing that the insurance policies effecting the insurance referred to in this General Condition 11 (including levels of excess, limits of cover and territory) are in place;
 - 11.12.2 proof that all relevant premia have been paid and that the relevant policy or policies remain up to date and in existence.

- 11.13 The Developer shall notify Irish Water in writing when the Water & Wastewater Services Infrastructure has been completed and is ready to be connected to the Waterworks and/or Wastewater Works (as the case may be). This notification shall be accompanied by a set of Final Documents.
- 11.14 Within 5 Business Days of the notification as outlined above, Irish Water will inspect the Water & Wastewater Services Infrastructure and the Final Documents. Irish Water reserves the right to request rectification of any defects found in the Water & Wastewater Services Infrastructure, and to request amendments of the Final Documents, should they be found to be not in accordance with this Connection Agreement. Such remediation of the Water & Wastewater Services Infrastructure and rectification of the Final Documents shall be undertaken in the timeline set out by Irish Water.
- 11.15 Subject to Irish Water being satisfied that:
- 11.15.1 the Water & Wastewater Services Infrastructure has been completed in accordance with this Connection Agreement;
 - 11.15.2 the Final Documents provided by the Developer are in order; and
 - 11.15.3 the Developer has fully complied with its obligations in General Condition 13 hereof;
- it shall issue to the Developer in writing a certificate of conformance (the “**Conformance Certificate**”). This shall commence the Defects Liability Period during which time the Developer is responsible for the making good of defects imperfections, shrinkages or other faults in respect of the Water & Wastewater Services Infrastructure as may be required in writing by Irish Water. The Defects Liability Period may be extended by Irish Water for a period equal to the sum of any periods after the issue of the Conformance Certificate during which the Water & Wastewater Services Infrastructure cannot be used for Water Services by reason of a defect or damage or where the Water & Wastewater Services Infrastructure have not been completed in accordance with this Agreement.
- 11.16 Irish Water shall use reasonable endeavours to complete the Connection Works within 20 Business Days of the date of issue of the Conformance Certificate.
- 11.17 Irish Water shall undertake inspections, surveys, investigations to assess the continued adequacy of the Water & Wastewater Services Infrastructure during the Defects Liability Period. When required, Irish Water will notify the Developer in writing of the need for repair, reconstruction or rectification works in relation to the Water & Wastewater Services Infrastructure. The Developer shall execute or secure the execution of all works of accommodation or works of repair, reconstruction, rectification and making good of defects imperfections, shrinkages or other faults in respect of the Water & Wastewater Services Infrastructure, as may be required of the Developer in writing by Irish Water during the Defects Liability Period. All such works shall be carried out at the Developer’s expense. If the Developer shall fail to execute

or secure the execution of works as aforesaid Irish Water shall be entitled to carry out such works and shall be entitled to recover from the Developer the costs and expenses reasonably incurred by Irish Water in so doing.

11.18 Upon expiry of the Defects Liability Period and subject to the completion of the works specified in the Schedule of Corrections (as appended to the Conformance Certificate, or otherwise issued to the Developer) to the satisfaction of Irish Water, Irish Water shall issue a Completion Certificate to the Developer. The Developer hereby acknowledges and agrees that it will reimburse Irish Water for any costs incurred:

11.18.1 in undertaking any works referred to in General Condition 11.17 or any other works of construction, reconstruction, maintenance, rectification or repair or making good of defects imperfections, shrinkages or other faults by reason of the Developer or its contractor failing to complete in a good and workmanlike manner and in accordance with this Connection Agreement the entirety of the Water & Wastewater Services Infrastructure; and

11.18.2 towards invoices or sums payable by virtue of any actions, claims or demands made against Irish Water by any third Party as a result of any act or default by the Developer or its contractor.

11.19 The Developer hereby acknowledges and agrees that, in the event the Developer fails to reimburse Irish Water for its reasonable costs as referred to in General Conditions 11.17 and/or 11.18, Irish Water shall be entitled to seek deduction of the relevant amount(s) from the Relevant Local Authority Security and the Developer hereby consents to such deduction being made by the Local Authority on Irish Water's behalf.

11.20 The rights and obligations of the Parties in relation to the Defects Liability Period shall survive the termination or expiry of this Connection Agreement.

12. Ownership of Infrastructure

12.1 The Developer agrees that the Water & Wastewater Service Infrastructure shall vest in Irish Water upon such date as Irish Water issues a Conformance Certificate.

13 Title, Warranty and Registration, Wayleaves and Easements

13.1 The Developer hereby warrants and agrees that it has or can procure legal title to grant Irish Water all rights contained in the Deed(s) of Grant of Wayleaves and Easements and that where appropriate it has obtained all necessary consents including the consent of any financial institution or third Party.

13.2 Prior to Irish Water issuing a Conformance Certificate as set out at General Condition 11.15, the Developer shall:

13.2.1 deliver for approval by Irish Water the PRA Compliant Map;

13.2.2 deliver to Irish Water a duly executed Deed of Grant of Wayleaves and Easements (in duplicate) in the form as set out in Appendix 7 of the Connection Offer for the benefit of Irish Water and the Water & Wastewater

Services Infrastructure over all the lands which are intended to be taken in charge by the Local Authority **TOGETHER WITH** the PRA Compliant Map; and

13.2.3 Where the Water & Wastewater Services Infrastructure is not entirely comprised within the boundaries of the lands which are intended to be taken in charge by the Local Authority identified in the Connection Offer Letter, the Developer shall deliver to Irish Water a duly executed Deed of Grant of Wayleaves and Easements (in duplicate) in the form as set out at Appendix 7 of the Connection Offer for the benefit of Irish Water and the Water & Wastewater Services Infrastructure, (to include without limitation a protected strip of metres on all sides of the **Water and Wastewater Services Infrastructure** in respect of the full length of the **Water and Wastewater Services Infrastructure TOGETHER WITH** the PRA Compliant Map.

13.2.4 Where the Water & Wastewater Services Infrastructure is not entirely comprised within the boundaries of the lands owned by the Developer, the Developer shall deliver to Irish Water a Deed of Grant of Wayleaves and Easements (in duplicate) in the form as set out at Appendix 7 of the Connection Offer for the benefit of Irish Water and the Water & Wastewater Services Infrastructure, duly executed by the applicable landowner (to include without limitation a protected strip of metres on all sides of the **Water and Wastewater Services Infrastructure** in respect of the full length of the **Water and Wastewater Services Infrastructure**) **TOGETHER WITH** the PRA Compliant Map.

13.3 The Developer irrevocably and unconditionally undertakes and agrees with Irish Water:

13.3.1 to irrevocably instruct its appointed solicitor to use best endeavours to stamp and register the Deed(s) of Grant of Wayleaves and Easements in the Property Registration Authority as soon as practicable at the Developer's expense and to provide notice of the relevant dealing number and evidence of such registration to Irish Water immediately following completion of registration **PROVIDED THAT** if requested by Irish Water the Developer shall consent to Irish Water taking over the registration process, and the Developer undertakes and agrees to assist Irish Water with this registration process following written request to do so; and

13.3.2 to specifically include reference and notice of the Deed(s) of Grant of Wayleaves and Easements in favour of Irish Water in any transfers, conveyances, assignment, lease and/or licence which the Developer may have with any third Party.

14. Financial Security Requirements

The necessity for the Developer to put any Required Security in place is specified in Appendix 8 of Connection Offer. In the event that Required Security is specified, the putting in place of the said Required Security shall be a pre-condition to the effectiveness of the Connection Agreement.

15. Assumptions

15.1 The Specification set out in Appendix 5 and the Connection Charge have been completed and assessed (respectively) based on the detail as set out in the Connection Application and the following assumptions:

15.1.1 the information contained in the Connection Application (as set out in Appendix 1B of the Connection Offer) is true accurate and complete in all material respects. If information provided is found to be incorrect or incomplete, the Developer may be invoiced for any additional costs; and

15.1.2 the Connection Charge has been assessed based on a desktop exercise without knowledge of existing utilities at the Development and any existing utilities, rock and other obstructions have not been measured on site. Dealing with such utilities, rock and obstructions may incur increased costs which shall be chargeable to the Developer.

(each an “**Assumption**” and together the “**Assumptions**”)

15.2 Any change in the Assumptions may lead to a change in: (i) the Connection Charge; and/or (ii) the timing of the Connection Works. The Developer acknowledges and agrees that any additional costs arising from such change(s) will be for the account of the Developer and that Irish Water shall not have any liability for the said additional costs. The Developer further acknowledges and agrees that it shall reimburse Irish Water for such additional costs and that, in the event the Developer fails to reimburse Irish Water for its said additional costs, Irish Water shall be entitled to seek deduction of the relevant amount(s) from the Relevant Local Authority Security. The Developer hereby consents to such deduction being made by the Local Authority on Irish Water’s behalf.

16. General Provisions

16.1 The Developer shall:

16.1.1 inform Irish Water, and all Parties acting on its behalf, of any relevant safety precautions before entry to the Development. Since Irish Water will not be aware of the specific hazards present on the Development, the Developer is obliged to inform Irish Water of such hazards. The Developer must ensure that Irish Water, and all Parties acting on its behalf, are either accompanied at all times by the Developer, or have been adequately briefed as to the presence of any specific hazards, the precautions that must be taken and what to do in the event of an accident or emergency;

16.1.2 co-operate with and assist Irish Water, and all Parties acting on its behalf;

- 16.1.3 not unreasonably interfere with or restrict the carrying out of Irish Water's obligations in accordance with the Connection Agreement;
 - 16.1.4 not do or cause or permit to be done anything which causes, or could reasonably be expected to cause, damage or destruction to any part of the Service Connection, the Connection Works or the Network(s) or in any way interferes with its operation or materially interferes with Irish Water's (and all Parties' acting on its behalf) access to same;
 - 16.1.5 be solely responsible at all times for maintaining and keeping excavations and reinstatements on the Development in a safe and secure condition and will indemnify and keep indemnified Irish Water, its servants, agents and contractors against all claims, demands, proceedings, damages and expenses whatsoever in respect thereof;
 - 16.1.6 agree the timing of any works to be carried out by the Developer with Irish Water.
- 16.2 The Developer shall also comply with any other reasonable directions issued by Irish Water to the Developer to ensure compliance with any Applicable Law or for any other reason where Irish Water, acting reasonably, deems it appropriate to issue such directions.
- 16.3 The Developer shall not allow the discharge of rainwater run-off from roofs, paved areas or other surfaces into any Sewer, except as may otherwise be agreed in advance with Irish Water in writing.
- 16.4 Irish Water may specify any technical requirements or standards necessary to minimise the risk of leakage or to protect the integrity of any Waterworks or Wastewater Works.
- 16.5 For the avoidance of doubt, the Developer is prohibited from using the Service Connection and/or using any other mechanism to supply Water Services onwards to another location or premises other than the Premises within the Development notified to Irish Water by the Developer to which the Service Connection applies. Irish Water shall in no way be liable for and shall be indemnified and held harmless by the Developer in respect of any breach of this provision by the Developer or by any other third Party, including any adverse consequences arising directly or indirectly as a result of such a breach and all costs, damages or claims arising therefrom.
- 16.6 The Developer indemnifies and holds harmless Irish Water and its servants, agents and contractors in respect of any loss, damage or injury that may result from the Self-Lay Works.

16.7 During the Term, the Developer shall be solely responsible for preventing any backflow, back syphonage or blowback from the Distribution System(s) of any Premises into the Water Main or Waterworks.

17. Notification for Meter Installation

The Developer is required to give Irish Water seven (7) days advance notification of when a property service connection, boundary box and Distribution System is in place and connected to any Premises that has been constructed and ready for occupation so that Irish Water can advance the provision of a meter in the boundary box. The installation of the meter will be at Irish Water's discretion based on current policy.

18 Register of Premises Serviced

The Developer shall be required under this Connection Agreement to provide Irish Water with a register, on a regular (and at least a quarterly) basis, of the Premises that have been constructed and ready to receive Water Services within the Development in the format provided in Appendix 10 of the Connection Offer. The initial register is to be provided to Irish Water at the pre-construction site meeting. Updates of the register are to be provided to Irish Water at subsequent construction site meetings at the intervals outlined above.

19. Time for Completion/Delays

Both Parties shall use reasonable endeavours to ensure that they perform the obligations under this Connection Agreement in a timely manner. Irish Water shall not be liable for any loss or damage suffered by the Developer in respect of delays resulting from any cause whatsoever.

20. Third Party Losses

The Developer shall indemnify Irish Water and its servants, agents and contractors, and hold Irish Water and its servants, agents and contractors harmless at all times from any and all losses of any third Party incurred, suffered or sustained pursuant to this Connection Agreement, but only to the extent any such loss was not caused by Irish Water's breach of this Connection Agreement or the negligence of Irish Water in undertaking its obligations under this Connection Agreement.

21. Liability

21.1 **Immunity:** Nothing in this Connection Agreement shall affect any immunity that Irish Water benefits from Applicable Law.

21.2 **Death or Personal Injury:** Subject to General Condition 21.1 above, nothing in this Agreement shall exclude or limit the liability of a Party for death or personal injury resulting directly from the negligence of that Party or any of its officers, employees and agents and that Party shall indemnify and keep indemnified the other Party, its officers, employees and agents from and against any losses, damages, claims,

liabilities, costs or expenses which that other Party may suffer or incur by reason of any claim on account of death or personal injury resulting from the negligence of the liable Party or the negligence of any of its officers, employees or agents.

21.3 **Physical Damage:** Subject to the other provisions of this General Condition and except as provided in General Condition 21.2, this General Condition 21.3 and where any other provision of this Connection Agreement provides for an indemnity, neither Party, nor any of its officers, employees or agents shall be liable to the other Party for any losses, damages, claims, liabilities, costs or expenses arising from any breach of this Connection Agreement other than for losses, damages, claims, liabilities, costs or expenses directly resulting from such breach and which at the date hereof were reasonably foreseeable as likely to occur in the ordinary course of events from such breach in respect of:

21.3.1 physical damage being occasioned to the property of the other Party, its officers, employees or agents; or

21.3.2 the liability of the other Party to any other Person for loss in respect of physical damage caused directly to the property of such other Person as a result of such breach.

21.4 **Reasonable and Prudent Operator:** Subject to General Condition 21.2, where the obligations of Irish Water are performed in accordance with the Standard of a Reasonable and Prudent Operator, Irish Water shall have no liability whatsoever to the Developer in respect of this Connection Agreement.

21.5 **Limit of Liability:** Subject to General Condition 21.2, Irish Water's aggregated liability in respect of all such losses, damages, claims, liabilities, costs or expenses pursuant to this Connection Agreement shall not exceed €100,000.

21.6 **No liability for Force Majeure:** Neither Party shall be liable for any breach of this Connection Agreement directly or indirectly caused by Force Majeure.

21.7 **No Liability:** Subject to General Condition 21.2 and any provision of this Connection Agreement which provides for payment obligations, neither Party nor any of its officers, directors, employees or agents shall in any circumstances whatsoever be liable to the other Party for:

21.7.1 any loss of profit, revenue, use, contract (other than this Connection Agreement), opportunity or loss of goodwill; or

21.7.2 any indirect or consequential loss, incidental or special damages (including punitive damages); or

21.7.3 loss resulting from the liability of the other Party to any other Person howsoever and whensoever arising.

21.8 **No implied warranties:** All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Connection Agreement.

21.9 **Taking Over of Legal Claims:** In the event of any third Party claim being made against a Party which is not liable, the Party which is liable shall be promptly notified of the claim and it may at its own expense conduct all negotiations for the settlement of the same, and any litigation that may arise from the claim. The Party which is not liable shall not make any admission which might be prejudicial to the claim. The conduct by the liable Party of such negotiations or litigation shall be conditional upon the liable Party having first given to the Party which is not liable such reasonable security as that Party shall from time to time notify that it requires to cover the amount ascertained or agreed or estimated, as the case may be, of any losses, damages, claims, liabilities, costs or expenses for which that Party may become liable in respect of the claim. The Party which is not liable shall, at the request of the liable Party, afford all reasonable assistance for the purpose of contesting the claim and shall be paid by the liable Party (within ten (10) Business Days of the date of its invoice therefor) all reasonable expenses incurred in so doing.

22. Assignment

The Developer shall not be entitled to assign the benefit or transfer the burden of this Connection Agreement without the prior written consent of Irish Water. Nothing shall prevent Irish Water from assigning the benefit or transferring the burden of this Connection Agreement to an Affiliate.

23. Sub-contractors

Either Party shall have the right to sub-contract or delegate the performance of any of its obligations or duties arising under this Connection Agreement without the prior consent of the other Party. Such subcontracting by Irish Water or the Developer of the performance of any obligations or duties under this Connection Agreement shall be on terms which are standard in the industry and shall not, in any event, relieve Irish Water or the Developer (as the case may be) from any liability for performance of such obligation or duty. The Developer shall remain fully liable for the completion of any works on its behalf pursuant to this Connection Agreement.

24. Developer's Authority

24.1 The Developer represents and warrants to Irish Water that:

- 24.1.1 it has full power and authority to enter into and to exercise its rights and perform its obligations under this Connection Agreement and has obtained all authorisations and consents necessary for it to so enter, exercise rights and perform obligations and such authorisations and consents are in full force and effect;
- 24.1.2 performance of this Connection Agreement will not conflict with or constitute a breach or default under any contract or agreement of any kind to which the Developer is a Party or any judgment, order, statute or regulation which is applicable to the Developer;
- 24.1.3 the obligations expressed to be assumed by it under this Connection Agreement are legal and valid obligations binding on it;
- 24.1.4 all payments to be made by it under this Connection Agreement may be made free and clear of, and without deduction for or on account of, any taxes whatsoever;
- 24.1.5 no representation or warranty made by or on behalf of the Developer and contained in this Connection Agreement and no statement contained in any submission to Irish Water, application, declaration or other instrument made by or on behalf of the Developer in connection with this Connection Agreement contains any false or misleading representation of a material fact, or omits to state a material fact necessary to prevent such statements, in the light of the circumstances under which they are made, from being misleading; and
- 24.1.6 in connection with the negotiation and execution of this Connection Agreement:
 - 24.1.6.1 it is acting as a principal (and not as an agent or in any other capacity, fiduciary or otherwise);
 - 24.1.6.2 it is not relying upon any advice, counsel or representations (whether written or oral) of any other Party other than the representations expressly set out in this Connection Agreement;
 - 24.1.6.3 it has made its own decision regarding the entering into of this Connection Agreement based upon its own judgement and upon the advice from such professional advisers as it has deemed necessary to consult;
 - 24.1.6.4 all of its decisions regarding this Connection Agreement have been the result of arms' length negotiations between the Parties; and
 - 24.1.6.5 it has a full understanding of the terms, conditions and risks (economic and otherwise) of this Connection Agreement, and is capable of assuming and willing to assume (financially and otherwise) those risks.

25. Term & Termination

- 25.1 This Connection Agreement shall commence upon the date that the Developer:

- 25.1.1 completes and returns the Letter of Acceptance;
- 25.1.2 pays the Connection Charge;
- 25.1.3 provides confirmation that the Relevant Local Authority Security has been put in place (together with supporting documents);
- 25.1.4 provides confirmation that any Required Security, as specified in Appendix 8 of the Connection Offer, has been put in place.

To the extent that any of the steps outlined at 25.1.1 – 25.1.4 occur on different days, the Connection Agreement shall commence on the last date on which all the steps have been fully complied with) and shall continue in full force and effect until the issue of the Completion Certificate, unless it is terminated earlier in accordance with the provisions of this Connection Agreement.

- 25.2.1 This Connection Offer is based on a high-level desk top analysis carried out by Irish Water on the feasibility of a connection for the Development. Once the Connection Offer has been accepted by You, Irish Water will begin a detailed design of the connection. If during the process of detailed design Irish Water, at its discretion, forms the opinion (acting reasonably) that either:

- 25.2.1.1 a connection to the Development is not feasible or practicable or safe to complete; or

- 25.2.1.2 a connection to the Development would involve the expenditure by Irish Water of monies in excess of that provided for by way of the Connection Charge,

then the Connection Agreement may be terminated by Irish Water by way of written notice to the Customer.

- 25.2.2 The Developer shall be entitled to terminate this Agreement on 14 days' written notice to Irish Water, provided such notice may not be given if a Conformance Certificate has been issued by Irish Water.

- 25.2.3 In the event that Irish Water or the Developer exercise their right to terminate under this General Condition 25.2, Irish Water shall return any Connection Charge paid by the Developer, less any costs and expenses incurred by Irish Water as at the date of termination, including, but not limited to, costs of construction, and any legal or financing costs.

- 25.3 Either Party shall be entitled to terminate this Connection Agreement upon written notice to the other Party where:

- 25.3.1 there is any material breach by the other Party of its obligations under this Connection Agreement and the breach cannot be remedied or if it is capable of being remedied, it has not been remedied by such Party within 28 days of the issue of a notice to it by the other Party identifying the breach and requiring it to be remedied;
 - 25.3.2 an event of Force Majeure persists for a period of 180 days or more, provided at least 14 days' notice of termination has been given in writing;
 - 25.3.3 the other Party becomes insolvent, unable to pay its debts when they fall due, ceases to trade or goes into liquidation (other than for the purposes of amalgamation or reconstruction) or is dissolved for any reason or has bona fide legal proceedings initiated against it for its winding-up which are not vexatious or incompetent;
 - 25.3.4 in respect of the other Party, any bona fide action or other steps are taken or legal proceedings are started (and are not withdrawn within fourteen (14) days) for the liquidation, winding-up, dissolution or for the appointment of a receiver, liquidator, administrator, examiner or similar officer of such Party;
 - 25.3.5 in respect of the other Party, an encumbrancer takes possession of, or a liquidator, receiver or an administrator or examiner is appointed over a substantial part of the assets of such Party or any security granted by such Party becomes enforceable;
 - 25.3.6 the other Party enters into any composition, assignment, scheme or arrangement with creditors generally of the other Party (other than for the purpose of a voluntary solvent reconstruction or amalgamation);
 - 25.3.7 the other Party is suffering a distress, execution, sequestration or other process being levied or enforced upon or sued or against all or any substantial part of its assets, rights or revenues which is not discharged, stayed, or dismissed within thirty (30) days; or
 - 25.3.8 any event equivalent or analogous to any of the events specified in paragraphs 25.3.3 to 25.3.7 (inclusive) above occurs in relation to the other Party in any jurisdiction.
- 25.4 Termination of this Connection Agreement shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either Party under this Connection Agreement.
- 25.5 Without prejudice to General Condition 25.4 and any other provision of this Connection Agreement that survives termination, the following obligations of the Parties to this Connection Agreement shall continue in full force and effect and be fully binding on the Parties notwithstanding termination:

General Condition 4 (Order Of Precedence);
 General Condition 10 (Connection Charge);
 General Condition 11.11 (Insurance);
 General Condition 12 (Ownership);
 General Condition 13 (Title, Warranty and Registration, Wayleaves and Easements);
 General Condition 16 (General Provisions);
 General Condition 20 (Third Party Losses)
 General Condition 21 (Liability);
 General Condition 25 (Term And Termination);
 General Condition 28 (Data Protection);
 General Condition 32 (Entire Agreement);
 General Condition 35 (Governing Law);
 General Condition 36 (Disputes).

26. Notices

- 26.1 Notices or other communications given pursuant to this Connection Agreement shall be in writing and shall be sufficiently given if delivered by hand or sent by e-mail or pre-paid registered post to the e-mail or postal address referred to below of the Party to which the notice or communication is being given or to such other address and as such Party shall communicate in writing from time to time to the Party giving the notice or communication.
- 26.2 The Developer’s address for service is as set out in the Connection Offer.
- 26.3 Any notice required or permitted to be given by the Developer shall be in writing addressed to Maria O’Dwyer, Connections and Developer Services Manager, at Irish Water, PO Box 860, South City Delivery Office, Cork City or by email to newconnections@water.ie or such other address or electronic mail address as may be notified to the Developer by Irish Water from time to time.
- 26.4 Every notice given in accordance shall be deemed to have been received as follows:

| Means of Dispatch | Deemed Received |
|-------------------|---|
| Hand Delivery | The time of delivery. |
| Post | 48 hours after posting (and proof that the envelope containing the notice or communication was properly addressed and sent by pre-paid registered post will be sufficient evidence that the notice or other communication has been duly served or given). |
| Email | Upon receipt by the addressee of the complete text in legible form. |

provided that if, in accordance with the above provisions, any such notice or other communication would otherwise be deemed to be given or made outside working hours

(being 9am to 5.30pm on a Business Day) such notice or other communication shall be deemed to be given or made at the start of working hours on the next Business Day.

27. Health & Safety

27.1 It is acknowledged and agreed that the works carried out for, or on behalf of, the Developer in relation to the Water & Wastewater Services Infrastructure are entirely separate and distinct to the Connection Works carried out for and on behalf of Irish Water. The Developer shall ensure full compliance with all applicable health and safety legislation including, if necessary and applicable, the Safety, Health and Welfare at Work (Construction) Regulations 2013 (the “**SHW Regulations**”) in respect of the works to the Water & Wastewater Services Infrastructure. The Developer acknowledges that it may have certain obligations under the SHW Regulations in relation to the construction of the Water & Wastewater Services Infrastructure and, as such, will ensure full compliance with those obligations. Irish Water shall ensure full compliance with all applicable health and safety legislation including, if necessary and applicable, the SHW Regulations in respect of the Connection Works. Irish Water acknowledges that it may have certain obligations under the SHW Regulations in relation to the Connection Works and, as such, will ensure full compliance with those obligations.

27.2 **Project Supervisor Construction Stage (“PSCS”) and Project Supervisor Design Process (“PSDP”)**

The Developer elects to be treated for the purposes of the SHW Regulations as the only client (and Irish Water agrees with such election by the Developer) in respect of the Water & Wastewater Services Infrastructure. The Developer accepts and understands its duties and responsibilities pursuant to the SHW Regulations including its obligation as a client to appoint a PSCS and PSDP in respect of the Water & Wastewater Services Infrastructure and to ensure that the relevant appointees have adequate insurance in place to cover the duties being undertaken by them.

28. Data Protection

28.1 If and to the extent personal data is processed (as such terms are defined in the Data Protection Legislation) pursuant to this Connection Agreement, the provisions of Appendix 2C shall apply.

29. **No Waiver:** No forbearance, indulgence or relaxation on the part of a Party shown or granted to the other Party shall in any way affect, diminish, restrict or prejudice the rights or powers of Irish Water or operate as or be deemed to be a waiver of any breach of conditions. None of the provisions of this Connection Agreement shall be considered waived by a Party unless such waiver is given in writing and signed by a duly authorised representative of the Party making the waiver. No such waiver shall be a waiver of any past or future default or breach nor shall such waiver constitute a modification of any term provision condition or covenant of the contract unless expressly so provided in such waiver.

- 30. Severability:** All of the provisions contained in this Connection Agreement are distinct and severable, and if any provision is held or declared to be unenforceable, illegal or void in the whole or in part by any court, regulatory authority or other Competent Authority it will, to that extent only, be deemed not to form part of this Connection Agreement and the enforceability, legality and validity of the remainder of these terms and conditions will not in any event be affected.
- 31. Force Majeure:** If either Party is by reason of Force Majeure rendered unable wholly or in part to carry out its obligations under this Connection Agreement, then upon notice in writing of such Force Majeure from the Party affected to the other Party, as soon as possible after the occurrence of the cause relied on, the Party affected shall be released from its obligations (other than the obligations to pay money) and suspended from the exercise of its rights under the Connection Agreement to the extent to which they are affected by the circumstances of Force Majeure and for the period during which those circumstances exist PROVIDED THAT the Party affected shall use all reasonable endeavours to prevent, avoid, overcome or mitigate the effects of such Force Majeure.
- 32. Entire Agreement**
- 32.1 This Connection Agreement shall be the entire agreement between the Parties with respect to the subject matter and expressly excludes any warranty, condition or other undertaking implied at law or by custom and supersedes all previous agreements and understandings between the Parties (other than as provided for in this Connection Agreement) with respect to its subject matter.
- 32.2 The Developer acknowledges and confirms that it does not enter into this Connection Agreement in reliance on any representation, any misrepresentation, warranty or other undertaking by Irish Water not fully reflected in this Connection Agreement.
- 33. Amendments:** This Connection Agreement may only be amended by written agreement of the Parties.
- 34. No Derogation from Statutory Responsibilities**
- The Developer acknowledges and accepts:
- 34.1 its obligations and duties under the Water Services Acts in relation to the protection of human health, repair of leaks and the reasonable conservation of water and the management, consumption and use of water on or at the Development to ensure that water is not wasted or consumed in excessive amounts;
- 34.2 that notwithstanding this Connection Agreement, Irish Water is not limited from exercising its powers under the Water Services Acts in relation to the Developer;
- 34.3 that the Premises Pipe Work (in terms of ownership, maintenance, repair, renewal or otherwise) will remain the sole responsibility of the Developer or any third Party owner of those Premises unless ownership is transferred to Irish Water.

- 35. Governing Law:** The Connection Agreement shall be governed and construed in accordance with the laws of Ireland and, subject to General Condition 36, the courts of Ireland shall have exclusive jurisdiction to decide disputes arising between the Developer and Irish Water.
- 36. Dispute Resolution**
- 36.1 Notification of a Dispute:** Any dispute between the Parties (a “Dispute”) shall be resolved, if possible, by negotiation. In the event that no agreement is reached within fifteen (15) days of the date on which either Party first notified the other Party that a Dispute exists, either Party shall have the right to have the Dispute determined in accordance with General Condition 36.2.
- 36.2 Mediation:** The mediator is to be appointed by agreement between the Parties and, in the absence of agreement within five (5) working days of the receipt by one Party of a written notice to concur in the appointment of a mediator, by the Mediators’ Institute of Ireland (“MI”). The mediation will be in Dublin and the costs of the mediation shall be shared equally between the Parties. In the event that the matter is not resolved within twenty eight (28) days of the mediator being appointed (or such longer period as may be agreed in writing between the Parties), then either Party may (but for the avoidance of doubt not be obliged to do so) commence court proceedings for the determination of the Dispute in question.
- 36.3 Construction Contracts Act 2013:** If any payment dispute arises under this Connection Agreement, notwithstanding any other provision of this General Condition 36, either Party may refer it to adjudication at any time and the provisions of the Construction Contracts Act 2013 shall apply.
- 36.4 Performance to Continue During Dispute:** Insofar as practicable, the Parties shall continue to implement the terms of this Connection Agreement notwithstanding the initiation of mediation or Court proceedings and pending the outcome of any Dispute. No payment due to or payable by Irish Water or the Developer shall be withheld on account of a pending reference to the dispute resolution mechanism except to the extent that such payment is the subject of the Dispute. However, Irish Water shall not be obliged to carry out the Connection Works unless it is in receipt of the Connection Charge.
- 36.5 Survival:** The provisions of General Condition 36.2 and 36.3 shall continue after the termination of this Connection Agreement where notice of the existence of the Dispute was given under General Condition 36.1 prior to termination. Nothing in this Connection Agreement is intended to prejudice the referral of a dispute to the Commission for Regulation of Utilities for determination in accordance with Irish Water’s Customer Handbook.

37. NEW INDUSTRY STRUCTURE AND INDUSTRY REGIME

37.1 If, after execution of this Connection Agreement, there shall be enacted and brought into force any Legal Requirement for:

37.1.1 the further reorganisation of the water industry in Ireland or any material part of it;

37.1.2 the further facilitation of the introduction of third party interests into the affairs of the water industry in Ireland or any part of it; or

37.1.3 the amendment or variation of any policy of Irish Water or the manner in which the Network(s) and any agreements or protocols related thereto are organised;

which necessitates a variation to this Connection Agreement, the Parties shall effect such changes as are reasonably necessary so as to ensure that the operations contemplated by this Connection Agreement shall be conducted in a manner which is consistent with the effect of the new Legal Requirement and most closely reflects the intentions of the same with effect from the date thereof provided that any such amendment will be of no greater extent than is required by reason of the same.

37.2 If any variation proposed under General Condition 37.1 has not been agreed by the Parties within three (3) months of it being proposed (the Parties acting as soon as reasonably practicable), either Party may refer to the Commission for Regulation of Utilities for determination and the Parties agree to abide by and to give effect to the Commission's determination, if necessary by entering into an agreement supplemental to this Connection Agreement.

37.3 Such changes shall have effect upon the date upon which the Legal Requirement in question is brought into force with such transitional arrangements as shall be reasonable and as are in compliance with the new legislation, directive, rule, regulation, direction, statutory instrument or order, referred to in General Condition 37.1.

