



AGREEMENT UNDER SECTION 8 OF THE SEWERAGE ACT 1999

AGREEMENT as to adoption of sewers

The Agreement on page 2 incorporates —

1. the following Schedule
2. the Conditions
3. the Specifications
4. the Layout Plan and the Drawings

SCHEDULE referred to in the within-written Agreement

1.	Name of Developer in full	
2.	Address or registered office	
3.	Name of Surety in full	
4.	Address or registered office	
5.	Dwg. & Information Sheet(s) Ref:	
6.	Name and situation of development (and phase no. if any)	
7.	Financial limit (in figures and words)	£ pounds
8.	Period of construction	months
9.	Date of agreement	

IMPORTANT NOTE TO DEVELOPER / OWNER: A COPY OF THIS DOCUMENT SHOULD BE PASSED TO THE LEGAL REPRESENTATIVE OF THE DEVELOPER AS IT CONTAINS COVENANTS WHICH MAY NEED TO BE ACTED UPON

AN AGREEMENT made on the date mentioned in Part 9 of the Schedule
BETWEEN (1) Manx Utilities Authority (“the Authority”)
(2) the Developer named in Part 1 of the Schedule and
(3) the Surety named in Part 3 of the Schedule

WHEREBY it is agreed pursuant to section 8 of the Sewerage Act 1999 that subject to and in accordance with the Conditions —

A. If the Developer proceeds with the Works the Developer shall construct the Works in accordance with the Drawings and the Specifications

B. The Surety shall indemnify the Authority in respect of any expenditure which the Authority may incur in accordance with this Agreement by reason of the failure of the Developer to perform or observe in full its obligations under this Agreement whether or not this Agreement has been terminated or disclaimed.

C. The Authority shall in accordance with the Conditions declare the Works to be vested in the Authority

Duly authorised on behalf of the Authority by the Chief Executive Officer:

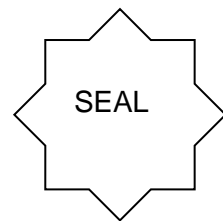
Signature of CEO:

SIGNED AND DELIVERED in the presence of:

THE COMMON SEAL of the Developer is
hereunto affixed in the presence of:

Director

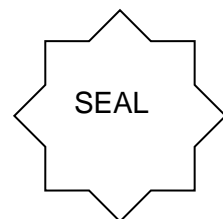
Secretary



THE COMMON SEAL of the Surety is
hereunto affixed in the presence of:

Director

Secretary



CONDITIONS

1. Interpretation

1.1 In this Agreement —

The Act	means the Sewerage Act 1999 (including any amendment or re-enactment thereof)
Adopted Road	means a road or proposed road which is or is intended to become a highway maintainable at the public expense
The Conditions	means these Conditions
Day	means any day except a Saturday, Sunday or bank holiday
The Drawings	means (subject to any alteration in accordance with paragraph 2 of the Conditions) those drawings, calculations and other design or working drawings relating to the carrying out of the Works or any part or parts thereof numbered which are not annexed hereto
Final Certificate	means a certificate issued under paragraph 9.3 of the Conditions by the Authority to the Developer confirming that — (a) the Works have been constructed in accordance with this Agreement; and (b) all defects notified to the Developer following final inspections by the Authority within one year of the Provisional Certificate have been remedied to the Authority's satisfaction.
Financial Limit	means the sum specified in Part 7 of the Schedule calculated according to the following formula: Construction estimate of all works x 10% = [a] Construction estimate of Pump Stations x 15% = [b] [a] + [b] = Financial Limit
Inspection Fees	means such fees for the inspection of sewers and drains as the Authority may from time to time fix for general purposes
Layout Plan	means the plan attached to this Agreement which shows the Site and the layout of the Works
Maintenance Period	means the period of 12 months from the date of issue of the Provisional Certificate or (if more than one is issued) the date of issue of the last Provisional Certificate
Period of Construction	means the period specified in Part 8 of the Schedule calculated from the date specified in Part 9 of the Schedule
Protected Strip	means the strip of land shown coloured { } on the Layout Plan having a width of 3 metres and (unless the contrary is clear from the Drawings or the Layout Plan) lying one half to each side of the centreline of those parts of the Works to which condition 20 applies and any existing sewers shown on the Drawings or the Layout Plan and includes any part of the Protected Strip
Provisional Certificate	means the certificate issued under condition 8
The Schedule	means the Schedule on page 1 of this Agreement
Sewer	has the same meaning as in the Act
The Site	means the site of the Development and any other land owned or leased by the Developer under in or through which the Works are proposed to be executed and outlined in green on the layout plan

The Specification	means the M&E and the Civil Engineering Specification (shown as Parts 3 and 4 of the 1st edition of <i>Manx Sewers for Adoption</i> published by the Authority (or its predecessor the Department of Transport) or the corresponding provisions of whichever subsequent edition thereof is current) and any appendices provided by the Authority
Vesting Declaration	A declaration under condition 12
The Works	means (subject to any alteration in accordance with condition 2.2) all the sewers as shown on the Drawings and includes any part or parts of the Works

2. Construction of Works

- 2.1 The Developer shall at its own expense properly construct and complete the Works in accordance with the Drawings and the Specification or as varied by virtue of the powers contained in paragraph 2.2 and the statutory provisions for the time being relating to new sewers and to the reasonable satisfaction of the Authority in the positions and to the extent shown within the Drawings and indicated by coloured lines and symbols as to foul and surface water sewers in accordance with Appendix IV of the said 1st Edition of *Manx Sewers for Adoption*.
- 2.2 The Developer shall not vary the Works or make any additional connections not shown on the Drawings without first obtaining the Authority's written consent.
- 2.3 Where the Authority notifies the Developer in writing that the functions of the Authority under this agreement stand delegated to a local authority under section 2 of the Act references to the Authority in conditions 3 to 11 (except any reference to vesting in the Authority) shall be construed as references to the local authority

3. Consent to Discharge

- 3.1 The Developer shall before the commencement of any Works apply for and obtain any necessary licence under Part 1 of the Water Pollution Act 1993 to any discharge from the Works and comply with the conditions relating to such consent
- 3.2 The Developer shall not agree to conditions of any such licence without the prior approval of the Authority (which approval shall not be unreasonably withheld or delayed) and shall if required by the Authority seek a review of the conditions under Schedule 1 to that Act

4. Notification of Intended Commencement

- 4.1 The Developer shall give the Authority at least 7 days' written notice of the date on which it intends to commence the Works and shall with such notice submit to the Authority for inspection such plans drawings and other design or working drawings relating to the carrying out of the Works and not previously submitted to the Authority as the Authority may require.

5. Period of Construction

- 5.1 The Developer shall construct and complete the Works within the Period of Construction
- 5.2 The whole of the Works including all outfalls and all connections to existing public sewers shall be completed and in working order before any foul or surface water drainage is discharged from any building or property served by the Works
- 5.3 If the Developer fails to construct and complete the Works within the Period of Construction the Developer shall comply with any revised standards for any part of the Works which have been notified to the Developer in writing by the Authority.

6. Building Over

- 6.1 The Developer shall not build plant or place anything over or within 3 metres measured horizontally from the centreline of any sewer (or such other distance as may be reasonably specified by the Authority) without the prior written consent of the Authority
- 6.2 Consent under paragraph 6.1 shall be deemed to be refused if it is not given within 10 days
- 6.3 Paragraph 6.1 does not apply to anything shown on the Drawings or the Layout Plan within the Protected Strip.

7. Backfilling

- 7.1 The Developer shall give the Authority not less than 5 days' prior notice before covering up any part of the Works.
- 7.2 Upon receiving such notice the Authority shall if it thinks fit arrange with the Developer to inspect the Works.
- 7.3 If the Developer fails to give notice under paragraph 7.1 or fails to comply with arrangements under paragraph 7.2 it shall be liable for the full cost of reopening the Works even if the same are found to comply with this Agreement.
- 7.4 Where the Developer gives notice under paragraph 7.1 and the Authority does not within the period of that notice make arrangements under paragraph 7.2 (unless prevented from so doing because of circumstances beyond its control) the Developer may cover up the Works.
- 7.5 Without prejudice to paragraphs 7.1 to 7.4 the Developer shall at any time, if requested to do so by the Authority in writing, open up the Works for inspection.
- 7.6 If the Developer fails to comply with such request within any time specified by the Authority, the Authority may open up the Works and then —

- 7.6.1 If any part of the Works are found not to comply with the terms of this Agreement the Developer shall repay to the Authority on demand the costs incurred by the Authority in opening up and re-covering the Works;
- 7.6.2 but in any other case the costs incurred by the Authority in opening up and re-covering the Works shall be borne by the Authority.

8. Provisional Certificate

- 8.1 When the Authority is of the opinion that the Works have been completed it shall issue a Provisional Certificate to the Developer to that effect.
- 8.2 The Works shall be treated for the purpose of paragraph 8.1 as completed when:
 - 8.2.1 They have been constructed in accordance with this Agreement; and
 - 8.2.2 More than half the premises within the Site and intended to be served by the Works are occupied; and
 - 8.2.3 All necessary connections or other things have been made or done whereby such occupied premises may be properly drained; and
 - 8.2.4 The Developer has supplied to the Authority (a) 2 full sets of 'as constructed' drawings and sections showing the completed Works and sewers by lines colours and symbols in accordance with Appendix IV of *Manx Sewers for Adoption* and (b) 2 sets (or more if reasonably requested) of operating instructions and maintenance manuals for any pumping station.
- 8.3 If requested by the Developer the Authority may at its discretion issue one or more Provisional Certificates in respect of any substantial part or parts of the Works that have been completed to its satisfaction.

9. Maintenance Period

- 9.1 During the Maintenance Period the Developer shall at its own expense maintain repair and otherwise keep the Works in good working order and repair to the reasonable satisfaction of the Authority
- 9.2 If during the Maintenance Period the Authority notifies the Developer that that any specified works of maintenance or repair are required as a matter of emergency the Developer shall carry out those works immediately.
- 9.3 Subject to paragraph 9.4 the Authority shall at the end of the Maintenance Period issue to the Developer a Final Certificate that the Works have been completed.
- 9.4 The Authority shall not be required to issue a Final Certificate unless it is satisfied that —
 - 9.4.1 The Works have been constructed and completed in accordance with the Drawings and the Specification to its reasonable satisfaction and have been proved as such with CCTV recorded inspections by the Developer.

- 9.4.2 The Works have been maintained by the Developer during the Maintenance Period; and
- 9.4.3 Any defects arising or work required in connection with the Works during the Maintenance Period and have been made good by the Developer to the reasonable satisfaction of the Authority;
- 9.4.4 No building or structure save as permitted in condition 6 has been erected without the written consent of the Authority within the Protected Strip or on or over land within 3 metres of any part of the Works not falling within the Protected Strip (or such other distance as may be reasonably specified by the Authority in respect thereof) measured horizontally from the centre line of any such Works;
- 9.4.5 Access to any part of the Works with or without vehicles plant or equipment is not obstructed;
- 9.4.6 Where any part of the Works is shown in the Drawings as discharging to an existing public sewer that part of the Works has been connected properly and directly and in the manner shown in the Drawings to public sewer;
- 9.4.7 Where any part of the Works is shown in the Drawings discharging to a watercourse that part discharges properly and directly to the watercourse in the manner shown in the Drawings and in accordance with any necessary licence;
- 9.4.8 No connection remains whereby surface water or groundwater may enter a foul water sewer or foul water or groundwater may enter a surface water sewer
- 9.4.9 Any sewer linking the Works to a public sewer or sewage disposal works is a public sewer;
- 9.4.10 The Developer has complied with all the requirements of conditions 3 and 19.
- 9.5 The Authority shall within 15 days after any inspection of the Works made during the Maintenance Period notify the Developer in writing of any defects arising or work required in connection with the Works needing rectification or completion before the issue of a Final Certificate
- 9.6 If the drawings and sections provided under paragraph 8.2.4 do not adequately and accurately show the Works to the reasonable satisfaction of the Authority it may require the Developer to provide at the Developer's own cost corrected drawings and sections.
- 10. Access to the Works**
- 10.1 The Developer shall arrange for the Authority to have access to the Works and the Site at all reasonable times before the Works are vested in the Authority.
- 10.2 The Developer shall in particular at its own cost provide all relevant plant, equipment (including safety equipment), signs, guarding, lighting and personnel whilst the Authority is on the Site for the purpose of carrying out inspections under this Agreement.

11. Authority's Right to Repair

- 11.1 If at any time before the Works are vested in the Authority the Developer fails to construct and maintain the Works in accordance with this Agreement the Authority may in its discretion (as agent of the Developer) construct complete make good and maintain such part or parts of the Works as may be necessary in the opinion of the Authority.
- 11.2 Before taking any action under paragraph 11.1 the Authority shall give not less than ten days notice in writing to the Developer and the Surety unless the Authority notifies the Developer that that any specified works are required as a matter of emergency in which case the Authority may carry out those works immediately.
- 11.3 The Developer shall upon demand pay to the Authority the cost thereof including the necessary cost of the preparation and service of such notices and of necessary administration as certified by the Authority including professional fees and other expenses reasonably and properly incurred.

12. Vesting Declaration

- 12.1 Subject to paragraph 12.2 as soon as may be after the issue of a Final Certificate the Authority shall make a declaration in writing that as from the date of the declaration the Works shall vest in the Authority and shall supply a copy of the declaration to the Developer and the Owner
- 12.2 The Authority shall not be obliged to issue a Vesting Declaration while any dispute exists between the Developer and any third party concerning the Works.
- 12.3 Where the making of a Vesting Declaration is delayed by virtue of paragraph 12.2 any obligation imposed on the Developer by condition 9 and any rights exercisable by the Authority under condition 11 during the Maintenance Period shall continue to apply notwithstanding the expiry of the Maintenance Period until the cause of delay has ceased

13. No Duty to Developer

- 13.1 Nothing in this Agreement imposes any obligation on the part of the Authority to the Developer or to any other person to ensure that the Works or any part or parts of the same are properly designed or constructed.

14. Indemnity by Developer

- 14.1 The Developer covenants to indemnify the Authority against all actions costs claims and demands which may be made against the Authority whether jointly or severally in connection with the design construction and completion of the Works and the vesting of the Works in the Authority

15. Insolvency of Developer

- 15.1 This Condition applies where the Developer —
 - 15.1.1 Fails to perform any of the obligations contained in this Agreement to be performed or observed by the Developer or
 - 15.1.2 Is adjudicated bankrupt or goes into receivership or liquidation whether voluntarily or otherwise (except for the purpose of re-construction or amalgamation) or
 - 15.1.3 Executes a deed of assignment or arrangement for the benefit of or otherwise compounds with its creditors
- 15.2 The Authority may without prejudice to its other rights remedies and powers against the Developer for such non-performance or non-observance by notice in writing to the Developer and the Surety terminate this Agreement and upon such notice being served this Agreement shall immediately terminate but without prejudice to —
 - 15.2.1 The obligations of the Surety to the Authority under condition 16 and of the Developer to the Authority under condition 19 and
 - 15.2.2 The rights of the Authority under condition 11.

16. Obligation of Surety

- 16.1 The obligations of the Surety shall in no circumstances exceed the Financial Limit.
- 16.2 The amount of any expenditure incurred by the Authority in respect of which the obligations of the Surety apply shall be that certified by the Authority whose decision shall be final.
- 16.4 The Surety shall be discharged or released from its obligations under this condition when the Works are vested in the Authority under condition 12
- 16.5 The Surety shall not be discharged or released from such obligations by —
 - 16.5.1 Any determination or disclaimer of this Agreement;
 - 16.5.2 Any arrangement between the Developer and the Authority;
 - 16.5.3 Any alteration in the obligations of the Developer;
 - 16.5.4 The execution of any amended extra or substituted works authorised under paragraph 2.2;
 - 16.5.5 Any forbearance whether as to payment performance time or otherwise whether made with or without the assent of the Surety.

17. Arbitration

- 17.1 Any dispute or difference arising from the construction of the Works or application of this Agreement may be referred for determination by a single

Arbitrator appointed by agreement between the parties or in default of agreement by the Lieutenant Governor of the Isle of Man pursuant to the Arbitration Act 1976.

17.2 Paragraph 17.1 does not apply to a dispute or difference relating to —

17.2.1 Any distance specified in conditions 6 and 12 or

17.2.2 Any decision of the Department under paragraph 8.3.

18. Notices

18.1 Any notice to be served on or drawings to be supplied or submitted to the Authority shall be delivered or posted to the Authority's principal office or other address as may be notified from time to time.

18.2 Any notices to be served on the Developer may be delivered or posted by pre-paid letter to its last known address (or being a limited company to its registered office or to its last known registered or head office) or place of business

18.3 Any notice to be served on the Surety may be delivered at or posted to its registered or head office or to its last known registered or head office.

19. Transfer of Land and Maintenance Arrangements

19.1 The Developer shall before the Works are vested in the Authority if so required by the Authority execute or secure the execution (at no cost to the Authority whether by way of consideration costs or disbursements whether such costs or disbursements be incurred by the Authority or by any other party) of:—

19.1.1 A Conveyance or Transfer to the Authority vesting in the Authority the customary fee simple (or in the case of registered land a freehold absolute title) free from any covenant easement exception reservation or other incumbrance of the land forming the sites of pumping stations outfall structures or balancing facilities that form part of the Works together in each case with all rights necessary to gain access thereto with vehicles

19.1.2 A Deed of Grant of easement in a form required by the Authority in respect of any balancing facility which is not to be vested in the Authority and adequate administrative arrangements for the maintenance and permanence of any such facility

19.2 The Conveyance or Transfer referred to in paragraph 19.1.1 shall contain the following agreement and declaration:

It is hereby agreed and declared that this [Conveyance][Transfer] shall not vest in the Authority any sewers (within the meaning of the Sewerage Act 1999) or sewage disposal works on over or under the property hereby [conveyed][transferred] but without prejudice to any vesting thereof in the Authority pursuant to section 7 or 8 of that Act.

20 Conveyancing Provisions

- 20.1 If any of the Works (other than Works in respect of which the Authority requires a Transfer to it under condition 19) are to be constructed within the Site and not within any adopted roads the Developer shall:
- 20.1.1 Ensure that the provisions of the Appendix are incorporated in any conveyance transfer or lease of the Protected Strip whether with or without other land; and
- 20.1.2 If requested by the Authority within 28 days of demand provide to the Authority free of charge a draft copy of the said conveyance transfer or lease to be used or a certified copy of the completed conveyance transfer or lease relating to any sale of the Protected Strip whether with or without other land if appropriate.
- 20.2 If any of the Works (other than Works in respect of which the Authority requires a Transfer to it under condition 20) are to be constructed outside the Site and not within any adopted roads the Developer shall:
- 20.2.1 Complete a deed of grant of easement from the owner of the land through whose land the Protected Strip runs ("the servient land") incorporating the provisions of the Appendix; and
- 20.2.2 Register the deed pursuant to the Registration of Deeds Act 1961 or (if the servient land is registered land) cause the deed to be registered as a burden on the servient land pursuant to the Land Registration Act 1982; and
- 20.2.3 Forward the deed to the Authority together with evidence of the registration.

Appendix

Provisions to be included in conveyance etc. of Protected Strip

- (1) In this clause —

"apparatus" means any sewers (within the meaning of the Sewerage Act 1999) and sewage disposal works on in or under the Protected Strip;

"the Authority" means the Isle of Man Water and Sewerage Authority;

"the Protected Strip" means that strip of land 3 metres wide shown on the plan hereto annexed and thereon coloured [] (unless the contrary is clear from the said plan, lying one half to each side of the centreline of the apparatus lying on in or under the strip)

- (2) Subject to the [Transferee] [Grantor] complying with his obligations under this Deed and to the Authority making good so far as is reasonably practicable or paying proper compensation for any damage not made good and to the Authority indemnifying the [Transferee] [Grantor] from and against all claims demands proceedings damages losses costs charges and expenses arising out of the exercise thereof the [Transferee] [Grantor] hereby grants the following perpetual rights to the Authority for the benefit of its sewerage undertaking and each and every part thereof:—

- (a) The right of having retaining using inspecting reconstructing replacing relaying altering maintaining cleansing repairing conducting and managing the apparatus on in or under the Protected Strip and having and enjoying the free flow and passage of water with or without other matter through any pipe forming part of the apparatus and (except where the apparatus is used to convey foul water) to discharge therefrom into any ditch or watercourse within or adjacent to the Protected Strip
 - (b) For the purposes mentioned in sub-paragraph (a) above (and for similar purposes in relation to any connected length of pipes or works incidental thereto) the right at any time and at all times in the day or night with or without vehicles plant machinery servants contractors and others and all necessary materials to enter upon and pass and re-pass along the Protected Strip by a route within the same or by such (if any) other convenient route from a highway as the Authority may with the approval of the [Transferee] [Grantor] (which shall not be unreasonably withheld or delayed) from time to time require causing no unreasonable damage thereto or to the [Transferee] [Grantor]'s adjoining land;
 - (c) The right of erecting and maintaining on or near the Protected Strip in such a position as to affect unreasonably the beneficial use of [the land hereby [conveyed] [transferred]] [the Grantor's land] any necessary markers indicating the Protected Strip or the position of the apparatus;
 - (d) The right in exercising any of the above rights to make all necessary excavations and to tip soil on land immediately adjoining such excavations as shall be necessary or desirable in relation to the exercise of those rights;
 - (e) The right of fencing or severing off such part of the Protected Strip from the adjoining and adjacent land of the [Transferee] [Grantor] as shall be necessary and for so long as may be necessary during the exercise of the above rights;
 - (f) The right of support for the apparatus from the subjacent and adjacent land and soil of the [Transferee] [Grantor];
 - (g) The right to remove all or any trees and shrubs growing in the Protected Strip and any walls hedges and fences thereon.
- (3) The [Transferee] [Grantor] hereby covenants with the Authority (to the intent that the burden of this covenant may run with the Protected Strip and so as to bind so far as practicable the same into whosoever hands the same may come and every part thereof and to benefit and protect the apparatus and undertaking of the Authority and each and every part thereof capable of being so benefited or protected but not so as to render the [Transferee] [Grantor] personally liable for any breach of covenant committed after the [Transferee] [Grantor] has parted with all interest in the land in respect of which such breach shall occur) as follows:—

- (a) Not to use or permit or knowingly suffer to be used the Protected Strip or any adjoining or adjacent land of the [Transferee] [Grantor] for any purpose that may endanger injure or damage the apparatus or render access thereto more difficult or expensive or adversely affect the quality of any matter therein or the free flow and passage thereof or means of communication along or through the same.
 - (b) Not to erect construct or place any building wall or other structure or erection or any work of any kind whether permanent or temporary in or on the Protected Strip (but not so as to prevent the erection of boundary or other fences of an easily removable character)
 - (c) Not to withdraw support from the apparatus or from the Protected Strip
 - (d) Not to undertake or cause or permit to be undertaken any piling or percussive works within the Protected Strip
 - (e) Not to alter the ground levels within the Protected Strip
 - (f) Not to plant or cause or permit to be planted any trees or shrubs in the Protected Strip
 - (g) Not to construct or lay or cause or permit construction or laying of any street road pipe duct or cable across the Apparatus at an angle of less than 45 degrees formed by the apparatus and the street road pipe duct or cable (but this shall not apply to an existing street road pipe duct or cable).
 - (h) To advise any tenant for the time being of the Protected Strip of the existence of the Apparatus and of this deed and its contents insofar as the same relate to the tenant's occupancy and enjoyment of the Protected Strip.
- (4) The Authority shall be entitled to enforce the above covenants pursuant to the Contracts (Rights of Third Parties) Act 2001.