

Chris Tulips

From: noreply@ros.gov.uk
Sent: 24 August 2023 15:37
To: Chris Tulips; susan.currie@ros.gov.uk
Subject: Application digitally submitted for: GLA67336 (7 NORTH CLAREMONT STREET, GLASGOW)

Submission confirmation

Submission reference:

F9YW-CWJ7-CC2C-6TDF

Submission date: 24/08/2023

Submission confirmation

Application 1

Matter reference:

CT/CARMI12-04

Application type:

Deed over the whole of a registered plot

Deed type:

Deed of Conditions/Real Burdens

Title number(s) and Subject(s):

GLA67336 (7 NORTH CLAREMONT STREET, GLASGOW)

Applicant(s):

CARMICHAEL HOMES WEST END LIMITED, Challenge House, 29 Canal Street, Glasgow, G4 0AD

Granter(s):

CARMICHAEL HOMES WEST END LIMITED, Challenge House, 29 Canal Street, Glasgow, G4 0AD

What happens next?

Now that we have your application, it will be processed as if it had arrived by post.

You will also receive your application email updates as normal.

You do not need to supply anything by post now. If you referenced documents or deeds you didn't upload we will be in touch to request as required.

If you have any queries contact customer.services@ros.gov.uk quoting your digital submission reference: F9YW-CWJ7-CC2C-6TDF.

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Submission Successful

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Version: 2.1.259

DEED OF CONDITIONS

By

CARMICHAEL HOMES WEST END LIMITED

2023

STREFFORD TULIPS
MUIRBROW CHAMBERS
118 CADZOW STREET
HAMILTON
ML3 6HP
CT/CARMI12-04

DEED OF CONDITIONS

By

CARMICHAEL HOMES WEST END LIMITED, incorporated under the Companies Acts (Company No: SC 728048) and having their Registered Office at Challenge House, 29 Canal Street, Glasgow, G4 0AD (hereinafter called "the Developer")

WHEREAS

- (A) The Developer is the heritable proprietor of the Development;
- (B) The Developer is carrying out the redevelopment of the Building in the Development of 10 units for residential use and following completion may dispose of some or all of the Units;
- (C) The Developer considers that it is proper and expedient to constitute and set forth in writing the rights appertaining to each of the Units and set forth and declare various restrictions, real burdens, conditions, prohibitions, declarations, restrictions, and others under which the Units shall be held by the proprietors thereof; and
- (D) The Developer has resolved to execute and register these presents in order to define (without prejudice to the insertion in individual Dispositions of other provisions) all such rights and all such real burdens, conditions, and others and to create the same as real burdens and conditions in accordance with the Title Conditions (Scotland) Act 2003 ("the 2003 Act").

NOW THEREFORE WE, the Developer, HEREBY PROVIDE, SET FORTH AND DECLARE (but without prejudice to the addition in specific cases of further reservations, real burdens, Conditions and others or to the real burdens, conditions, and others if any and so far as still valid, subsisting, and applicable thereto currently affecting the Building or any parts or part thereof) as follows:

1. DEFINITIONS AND INTERPREATION:

1.1 In this Deed of the following words and phrases shall, unless the context requires otherwise, have the meanings hereinafter ascribed to them, namely:

Development means ALL and WHOLE the subjects at North Claremont Street Glasgow registered in the Land Register of Scotland under Title Number: GLA67336 on which the block of 10 units is to be erected

Development Common Parts means the parts of the Development which are provided for the common benefit of all the Units, including without limitation the following parts of the block within the Development:

(a) the entrances halls, passages, corridors, stairways, lift and all appliances pertaining thereto, plant or storage rooms, sprinkler system, solar panels located on the roof and all appliances pertaining thereto, the bin store shown coloured green on the plan annexed hereto, the gas meters shown coloured orange on the said plan, the general common areas including internal common stair shown coloured blue on the plan, the common roof area shown coloured yellow on the said plan, any common landscaped areas, access areas and disabled parking spaces and any areas of ground not specifically disposed to the owners or any unit or units within the Development including any visibility splays, decking and landscaped areas (including hard and soft landscaping) and perimeter walls and fences forming part of or which serve all Units, visibility splays and all others including those items providing shelter and/or support for any of the blocks forming the Development;

(b) the vehicular and pedestrian accesses to the Development and any gate or barrier and barrier entry system and equipment and all or any ponds within the Development but only to the extent that it is included within the title to the Building and they do not form part of the Stair Common Parts;

(c) common lighting, fire alarm and smoke detector systems and firefighting equipment not forming part of the Stair Common Parts;

(d) generally the whole structural frame of any of the block forming the Development and all other parts of or fittings in the Development which are part of the main structure of the block forming the Development and any other thing which serves all Units (declaring that should there be any dispute as to whether any of such items serve all Units, the Developer will (so long as it remains the proprietor of any Unit) have the sole power to determine the use of such items).

But there is excluded from this definition the windows (including the glass, frames, and casings) of any of the Units and the Stair Common Parts.

Building means the block of 10 flatted dwellinghouses erected on the Development

Building Proportion means the proportions set out in Part 1 of the Schedule annexed and executed as relative hereto.

Common Maintenance Works means (save to the extent covered by the Services) inspecting, cleansing, lighting, operating, decorating, maintaining and repairing the relevant Common Parts so as to keep them clean and tidy, in a good and tenable condition free from any defects and in compliance with all relevant statutory requirements and, where reasonably necessary for these purposes, renewing, replacing and rebuilding the same or any part or parts thereof or carrying out such other works to the Common Parts as the Managing Agent may deem appropriate for these purposes.

Common Parts means the Development Common Parts and the Stair Common Parts or, as the case may be, either of them (or any part thereof).

Development Works means the development of the Development by or on behalf of the Developer.

Insured Risks means fire, lightning, explosion, earthquake, storm, tempest, bursting or overflowing of water tanks, apparatus or pipes, riot, impact of road vehicles, civil commotion and malicious damage, strikes, labour and political disturbances and aircraft (other than hostile) and aerial devices and articles dropped therefrom, flood, subsidence, landslip, heave, terrorism (provided insurance for terrorism is available in the market as reasonable rates) and such other normal commercial risks or perils as the Owners (acting through the Managing Agent) (as the case may be) shall from time to time reasonable require, subject to the reasonable availability of cover and to the conditions and exceptions normally contained in policies for such insurance from time to time.

Managing Agents means *Taylor & Martin*, of 4 Berkeley Street, Glasgow G3 7DW or such person, company, or firm as is appointed from time to time as the Managing Agent for the Building in terms of Clause 10 below.

Owners means the respective heritable proprietors from time to time of the Units or any of them and shall be deemed where appropriate to include the executors or personal representatives of any such proprietors and their heritable creditors in so far as in possession.

Payment Day means quarterly on 28 February, 28 May, 28 August, and 28 November in each year or on such other dates as may be intimated by the Managing Agent to the Owners.

Reinstatement Value means full reinstatement value (including a sum in respect of site clearance and debris removal, plus architects', surveyors, and engineers' fees relative thereto);

Relevant Day shall mean the date of completion of the sale by the Developer of the last of the Units within the Building.

Stair Common Parts means those parts of the block within the Development which are provided for the common benefit of the Units within a Stair (in so far as not forming part of the Development Common Parts), including without limitation:

- (a) the entrance hall(s), corridors or passages, stairs (including any balustrades), windows therein (including the glass, frames, and casings) the floors and ceilings (including the screeding, plaster work and internal finishes and coverings thereof),
- (b) one half severed vertically of any non-structural walls separating the Stair Common Parts and any adjoining Unit,
- (c) the entirety of any non-structure walls wholly within the Stair Common Parts.
- (d) internal common lighting, including any emergency lighting both internal and external and any fire alarm, smoke detector systems and all firefighting equipment pertaining to the Units,
- (e) the lifts, lift shaft, lift plant and equipment, lift reception area and bin stores.

(f) any Service Media, door entry system and equipment (including any video entry system but excluding therefrom any access control handsets/keys/cards/readers or other devices pertaining to any Unit), other security systems, any relevant closed circuit television equipment serving the Units and/or the Stair Common Parts, any common television and radio aerials which in all cases are intended to serve two or more Units (declaring that should there be any dispute as to whether any of such items serve two or more Units, the Developer, will have the sole power to determine the use of such items), and

(g) all other items within a Stair which are intended to serve two or more Units (declaring that should there be any dispute as to whether any of such items serve the two or more Units, the Developer (so long as they remain the proprietors of any Unit) and thereafter the Managing Agent, will have the sole power to determine the use of such items).

(h) the *solum*, foundations, all exterior and load bearing walls, and structures whether internal or external of the block;

(i) the floor slabs or joists (but excluding the screeding, plaster work and internal finishes thereof so far as forming part of a Unit;

(j) the roofs (including the whole structural parts thereof and the waterproof membranes thereof) and roof coverings, the roof hatches, any attics and lofts any roof windows (including the glass, frames, and casings) and any accesses thereto, if any and the Service Media (in so far as serving all Units);

Unit means each apartment within the Building owned exclusively by the proprietor thereof including:

(a) all internal surfacing materials and finishes on the walls, floors (but nothing below them) and ceilings (but nothing above them) of the relevant Unit and on the other structural parts of the Building within or bounding the relevant Unit;

(b) all doors, windows and door and window frames and casings of the relevant Unit, any external terrace or balcony that can only be accessed from within the relevant Unit including the fixtures and finishings upon the surface of the floor thereof and the airspace immediately above the balcony but the said airspace shall not extend beyond any balcony or any part of the Building above the Unit;

(c) the plant, fixtures, and fittings within or exclusively serving the relevant Unit;

(d) one half severed vertically of any non-structural walls separating the relevant Unit from any adjoining Unit;

(e) the entirety of any non-structural walls wholly within the relevant Unit; and

(f) all Service Media within and exclusively serving the relevant Unit,

But excluding the common Parts (save in so far as a right in common is conferred as hereinafter provided).

Schedule means the schedule of Parts I and II annexed and executed as relative hereto.

Service Media means drains, pipes, tanks, cables, rhones, wires, transmitters, gas meters or ducts and other conducting media or equipment for public utility and other services (including satellite television) provided or to be provided in the Building.

Services means the services to be provided by the Managing Agent and which may include those described in Part II of the Schedule.

Stair means the Common Stair entering the block which forms the Development.

1.2 In this Deed, unless there be something in the subject or context inconsistent therewith:

1.2.1 words and expressions (including defined words and expressions) importing one gender only include both other genders: words importing persons include partnerships and corporations and *vice versa*;

1.2.2 words and expressions (including as above) importing the singular number only shall include the plural number and *vice versa*; where wo or more persons are at the same time the Owners of any Unit, they shall be bound jointly and severally for the implement of the obligations falling on them by virtue of this Deed;

1.2.3 any reference to an Act of Parliament shall include any modification, extension, or re-enactment thereof for the time being in force and shall also include all instruments, rules, orders, plans, regulations, permissions, notices, and directions for the time being made, issued or given thereunder or deriving validity therefrom;

1.2.4 any reference to VAT shall include a reference to any tax or assessment which may be substituted for or replace the same and where one party is to pay an amount of money, such amount shall be regarded as being exclusive of any VAT which may from time to time be legally payable thereon and the obligation on that party shall extend to an obligation to pay any such VAT;

1.2.5 any phrase introduced by the words "including", "include", "in particular" or any similar expression shall be construed as illustrative only and shall not be construed as limiting the generality of any preceding words, and

1.2.6 the Clause and paragraph headings herein are inserted for convenience of reference and are not deemed to form part of this deed nor shall they affect its construction.

2. COMMON PARTS

2.1 The Development Common Parts shall be owned in common by the Owners of all 10 units in the Development who shall have an equal *pro indiviso* interest therein.

2.2 The Stair Common Parts shall be owned in common by the Owners of all 10 units in the Development who shall have an equal *pro indiviso* interest therein.

3. DEVELOPMENT COMMON PARTS

Each of the Units shall be held subject to the following burdens and each of the Owners shall be bound and obliged to implement and observe jointly with the others the following burdens and all costs properly and reasonably incurred in so implementing such obligations shall be

paid, in terms of the other provisions of this Deed or otherwise on demand, by each of the Owners to the extent after mentioned:

3.1 Repair: To carry out all requisite Common Maintenance Works to the extent of their respective Building Proportion to or in respect of the Development Common Parts.

3.2 Services: To pay a share to the extent of their respective Building Proportion in relation to the cost of the Services so far as relating to the Development Common Parts.

3.3 Access: A right of access over the Development Common Parts in favour of the other Units where necessary for the purposes of:

3.3.1 carrying out any works of maintenance, repair, or renewal to the Development Common Parts or any of the Units,

3.3.2 taking access to any of the Units;

Subject in both cases to the relevant Owner exercising such rights causing the minimum disturbance possible and making good all damage caused thereby to the reasonable satisfaction of the relevant Owner (or in the case of damage to the Development Common Parts, the Managing Agent) and procuring that the exercise of the right of access does not materially interfere with the use and enjoyment of or access to the Units.

4. **STAIR COMMON PARTS**

Each of the Units in the Block shall be held subject to the following burdens and each of the Owners shall be bound and obliged to implement and observe jointly with the others the following burdens and all costs properly and reasonably incurred in so implementing such obligations shall be paid, in terms of the other provisions of this Deed or otherwise on demand, by each of the Owners to the extent after mentioned:

4.1 Repair: To carry out all requisite Common Maintenance Works to the extent of their Building Proportion to or in respect of the Stair Common Parts.

4.2 Services: To pay a share to the extent of their respective Building Proportion in relation to the cost of the Services so far as relating to the Stair Common Parts.

4.3 Access: A right of access over the Stair Common Parts in favour of the other Units where necessary for the purposes of:

4.3.1 carrying out any works of maintenance, repair, or renewal to the Stair Common Parts or any of the Units,

4.3.2 taking access to any of the Units;

Subject to the relevant Owner exercising such rights causing the minimum disturbance possible and making good all damage caused thereby to the reasonable satisfaction of the relevant Owner (or in the case of damage to the Stair Common Parts, the Managing Agent)

and procuring that the exercise of the right of access does not materially interfere with the use and enjoyment of or access to the Unit.

5. SERVICE RESERVATIONS

5.1. Each of the Units shall have the benefit of a heritable and irredeemable servitude right of wayleave for and to use and enjoy all existing Service Media in so far as the same service the Unit and cross the relevant Common Parts, together with a right of access to the relevant Common Parts, on reasonable prior notice to the Managing Agent, for the purpose of inspection, repair or renewal of such Service Media subject always to making good any physical damage thereby occasioned and to causing the minimum inconvenience reasonably practicable.

5.2 Each Unit shall be subject to such servitude and other rights specified in Clause 5.1 above.

6. BURDENS AFFECTING EACH OF THE UNITS

Each of the Units shall be held subject to the following burdens and each of the Owners shall, in regard to the Units which they respectively own, be bound and obliged to implement and observe and, where appropriate, to use all reasonable endeavours to procure that the occupants of and those visiting their Unit(s) implement and observe the following burdens:

6.1 **Repair:** To maintain and repair and all times to keep the Units and all Common Parts in good and tenable condition free from any defects and, when reasonably necessary for that purpose, to replace, renew and rebuild the same or any part of parts thereof irrespective of the cause of damage or deterioration. Where, under this Clause, works are required to any mutual item, such works shall be carried out by the affected Owners as provided for in this Deed and any works shall be carried out in a manner that does not affect, interfere with or cause damage or deterioration to the Building.

6.2 **Alterations:** To carry out any alterations to a Unit so as not to interfere with the structural integrity of the block of which it forms part. To maintain the windows and doors of the Units and any terraces or balconies forming part of a Unit in their original appearance and style unless another style is approved by the Managing Agent. Not to replace the windows in a Unit other than with windows of a quality and standard at least equivalent to those existing at the time of replacement and so as to be compliant with then current building standards regulations.

6.3 **Window Cleaning:** Windows in the Units shall be washed as and when reasonably required.

6.4 **External Appearance:** The external appearance of the Units must be maintained in the original colour scheme existing at the date the Development Works are completed or in

accordance with such other colour scheme as the Managing Agent may from time to time approve.

6.5 Aerials: Save for those forming part of the Common Parts and normal domestic internal television reception aerials, no satellite dishes or aerials shall be erected or set up in the Units or the Common Parts.

6.6 Statutory Requirements: Each of the Owners shall always ensure that their Unit complies in every respect with all obligations (whether relating to the unit, its use or otherwise) imposed by any Act of Parliament or other statutory requirement and such Owners shall execute all such works and do all such things as may be necessary to achieve that end.

6.7 Dangerous Substances: Petrol and other inflammable substances (including in Calor Gas type containers) shall not be brought into or kept in any Unit save in such fashion and quantity as is appropriate for domestic DIY work in the Unit in question and then only in such manner as shall comply with all relevant statutory requirements.

6.8 Permitted Use: Each Unit shall be used and occupied solely as a private dwellinghouse and for no other purposes whatsoever (save as after mentioned); it shall not be sub-divided; and it shall not be used for the carrying on therein of any trade, business or other profession or for the selling therein or therefrom of any goods or wares of any sort save that use by an occupier for business purposes shall be permitted where it is ancillary to the main residential use, is not apparent from out with the Unit, does not involve employees, customers or others visiting the Unit, does not involve the use of machinery for any process and otherwise does not cause a nuisance or disturbance to the other Owners and occupants of the Building. No unit shall be used as a short-term holiday let such as an Air BNB.

6.9 Nuisance: No Unit shall be used for any illegal or immoral purpose or in such a manner as becomes a nuisance or causes damage to any of the other Owners or the occupants of and those visiting the other Units.

6.10 Animals/Pets: No animals, birds, insects, or fish may be kept in or admitted to any unit save for not more than two domestic pets or a tank of fish or not more than two cage birds and then only provided the same do not occasion a nuisance or disturbance to the Owners or occupiers of the other Units and the Managing Agent shall be the sole judge of what shall constitute a nuisance or disturbance. Any permitted pets must be accompanied by its owner and, in the case of dogs, kept on a lead while in the Common Parts and no such pet shall be allowed to foul any part of the Building.

6.11 Washing etc: No linen, clothes, washing, rugs, mats, carpets, or other articles shall be hung, shaken or exposed for drying or for any other purpose from or on any part of the exterior of any of the units (including any terrace or balcony included within a Unit) or in the Common Parts.

6.12 Noise: Each of the Owners shall always ensure that (but particularly between 11pm and 7am) the noise level from their Unit is such as will not be a nuisance to or interfere with the peaceful enjoyment of the occupants of the other Units.

6.13 Machinery: Save for normal domestic appliances which have been adequately suppressed, no plant, equipment or machinery may be operated in a Unit. In any event no such appliances shall be operated in such a manner as causes vibration in the Common Parts or another Unit.

6.14 Washing Machines & Baths and Showers: All washing machines in the Units shall be kept well serviced and maintained and, in operating them and otherwise generally, the Owners of each Unit shall take all reasonably appropriate steps to ensure that water or any other liquid does not flood or otherwise leak into lower or adjacent Units or the Common Parts. Each Owner shall ensure that the seals around baths and showers are kept in good condition and renewed when necessary.

6.15 Flooding: In the event of a flood or leak, the Owner of the unit from which the water or liquid came shall immediately rectify and make good all damage and injury occasioned to any part of the Building and to the furniture, moveables, effects, and belongings therein.

6.16 Refuse: Refuse must not be allowed to accumulate in the Units save in receptacles provided by the Owners for that purpose and all such refuse shall be regularly removed. Each of the Owners shall be prohibited from dropping or leaving (or permitting those occupying their Unit from dropping or leaving) rubbish or refuse in any of the Common Parts other than within those areas and receptacles designated for such purpose or outside the Building save if left in an appropriate place and manner for and within a reasonable time for a scheduled or pre-arranged refuse collection. Nothing shall be kept or stored in the Building which may encourage vermin.

6.17 Signs: No nameplate, placard, flag, flagpole, canopy, sign (including for sale or to let signs), hanging baskets or planting boxes shall be attached or displayed in such a way as to be visible from out with the Units other than (a) a small name plate in the Stair Common Parts provided (if any) for that purposes, (b) a discreet name plate at or on the entrance door to each Unit (c) a sign advertising a Unit for sale which may be displayed on the windows of a Unit only.

6.18 Overloading: Not to bring in or upon the Building anything which may put thereon any weight or impose strain in excess of that which the same are calculated to bear with due margin for safety. Further not to overload the electrical circuits and installations in and serving the Units.

6.19 Management Regulations: Each of the Owners shall and shall procure that those occupying their Unit shall comply with all (if any) Management Regulations which may be made in terms of this Deed.

6.20 Stair Common Parts:

6.20.1 The Owners must ensure that they and those occupying their Unit use the Stair Common Parts only for the purposes for which they were provided and that the entrances, corridors, stairs, lifts, and bin stores are kept clean and tidy, free from obstruction and graffiti and that no prams, bicycles, toys, or any other articles whatsoever are left in the Stair Common Parts.

6.20.2 The Owners and those occupying or visiting their Unit(s) shall not interfere with any electrical or other apparatus, plant, machinery, or equipment situated in the Stair Common Parts.

6.20.3 The entrance doors to the Stair Common Parts must be kept always closed after usage. Each of the Owners must ensure that they and all occupiers and their friends and other visitors, when calling at the Unit, enter the Stair Common Parts and the Unit quietly so as not to cause any disturbance or annoyance to the occupants of the other Units.

6.20.4 Smoking and the preparation and consumption of food and beverages are expressly prohibited in all enclosed parts of the Common Parts.

6.20.5 Any non-structural walls separating a Unit from the Stair Common Parts shall be maintained, repaired, renewed and rebuilt as required in terms hereof jointly by the Owner of the relevant Unit(s) and (as one party) the Owners of the Stair Common Parts and that at the joint and equal expense of the two parties.

6.21 **Games:** No ball games shall be played in the Common Parts and the occupiers of each Unit must ensure that their family and those visiting the Unit do not loiter or play in any of the Common Parts.

6.22 Use of Common Parts:

6.22.1 The Owners must ensure that they and those occupying their Unit use the Development or Stair Common Parts only for the purposes for which they were provided and, that the entrances, corridors, stairs, lifts, and bin stores are kept clean and tidy, free from obstruction and graffiti and that no prams, bicycles, toys or any other articles whatsoever are left in any part of the Development or Stair Common Parts;

6.22.2 The Owners and those occupying or visiting their Unit shall not alter or interfere with any electrical or other apparatus, plant, machinery, or equipment situated in the Development or Stair Common Parts.

6.22.3 The entrance doors, gates and barriers to the Development or Stair Common Parts must be kept always closed after usage. Each of the Owners must ensure that they and all occupiers and their friends and other visitors, when calling at the Unit, enter quietly so as not to cause any disturbance or annoyance to the occupants of the other Units;

6.22.4 Smoking and the preparation and consumption of food and beverages are expressly prohibited in all enclosed parts of the Development or Stair Common Parts;

6.22.5 Any bicycle racks shall be used only by the Owners for the parking of bicycles and no other vehicles whatsoever in accordance with the requirements of the Managing Agent from time to time.

6.22.6 The Development or Stair Common Parts shall not be used by the Owners to cause nuisance, annoyance, damage or inconvenience to the other owners or the occupants of and those visiting the other Units.

6.23 **Balconies:** Where a Unit includes an external terrace or balcony that can only be accessed from within the relevant Unit not to:

6.23.1 make any alterations to nor build any structure on the balcony whether temporary or permanent; or

6.23.2 place any object or thing on the balcony which shall or may overload or damage or prejudice the structural integrity of the balcony and/or Building; or

6.23.3 erect or display any signs on the balcony; or

6.23.4 do anything on the balcony which shall or may endanger life or cause nuisance, annoyance, damage, or inconvenience to the other Owners.

7. INSURANCE

7.1 The Owners shall be bound to insure and keep insured or cause to be insured and kept insured through the Managing Agent the Unit, the Stair Common Parts and their entire interest in the Development Common Parts which insurances shall be effected by the Owners acting through the Management Agent against (i) loss or damage by the Insured Risks for the full reinstatement value thereof and (ii) against such third party risks and property owners' liability for such sum or sums as the Owners (acting through the Management Agent) shall from time to time reasonably require, all subject to the reasonable availability of cover and to the conditions and exceptions normally contained in policies for such insurance from time to time, in each case in the name of the Managing Agent on behalf of the Owners of the Building or such other names as the Managing Agent on behalf of the Owners of the Building or such other names as the Managing Agent (or the Owners) shall reasonably require in some insurance office of repute and through such agency as may be nominated by the Managing Agent acting reasonably and the premiums for such insurances shall be paid in accordance with the Building Proportion set out in Part I or the Schedule.

7.2 In the event of the block within the Development or any Units therein or any part thereof or any other part of the Building which is necessary for the continued beneficial enjoyment and use of the Units being damaged or destroyed by any of the Insured Risks at any time so that the Building or the Unit(s) in question is/are unfit for occupation and use in whole or in part, then, to the extent require, the Owners (acting through the Managing Agent), as the case may require, shall cause the monies received by virtue of such damage or destruction (except for monies received in respect of third party and property owners' liability (which shall be expended in discharging such liability) to be laid out (subject to all necessary statutory and other consents being obtained either unconditionally or, if conditionally, on terms acceptable to the Owners acting reasonably which the Owners (acting through the Managing Agent) shall be bound to use all reasonable endeavours to obtain as soon as reasonably practicable) in rebuilding or repairing or reinstating the Building or the Unit or such other parts of the Building so damaged or destroyed as soon as reasonably practicable in accordance with the then good building materials, to the intent that the obligation to rebuild, repair or reinstate the Building or the Unit shall be deemed satisfied to the extent that the rebuilding or other works conform to good practice then current and provide to the Owner a substantially comparable useable area to that comprised in the Unit and the Building before the damage and, in the event that the insurance proceeds shall be insufficient for that purpose, the Owners shall meet the shortfall or deficiency out of their own funds save where the insurance monies payable under any insurance policy are wholly or partially irrecoverable by reason solely or in part of any act or default of an Owner or any person under its control in which case the Owner concerned will make up the irrecoverable amount from its own monies in rebuilding or reinstating the Building.

7.3 If the Owners are prevented and continue to be prevented two years after the date of the damage or destruction of the Building or the relevant part or parts thereof so to rebuild or reinstate then all monies received in respect of the insurance effected by the Owners pursuant hereto shall be divided among the Owners according to the value at the date of the destruction or damage of their respective interests in the Building provided that if the Owners do not agree as the division of such insurance monies, then any Owner shall be entitled to refer the matter to an arbitrator to be appointed by the Owners or in the absence of agreement such arbitrator as may be appointed by the senior office bearer of the Royal Institution of Chartered Surveyors in Scotland on the application of any Owner.

7.4 No part of any of the blocks within the Development shall be used in such a manner as might reasonably be expected to render void or voidable the said insurance policy or policies

8. MISCELLANEOUS

8.1 Save to the extent that the same form part of the Stair Common Parts any division walls, floor or ceiling slabs or joists or other items which are mutual to two or more Units shall be maintained and repaired and renewed and rebuilt as required n terms hereof jointly by the Owners of the relevant Unit(s) at the joint and equal expense of the two parties.

8.2 If an Owner or those occupying or visiting that Owner's Unit causes any damage or injury (other than normal wear and tear) to any part of the Building (including to decoration, floor coverings and the furniture, moveables, effects and belongings therein) such damage or injury shall be immediately rectified by the relevant Owner or, at the option of the party sustaining such damage or injury (in the case of the Common Parts being the Managing Agent), the relevant Owner shall on demand pay sufficient compensation to repair the damage or replace the damaged item(s).

8.3 Any right of access or egress granted to any of the Owners in this Deed may be exercised by tenants and others authorised by them but all related indemnities granted by such Owners shall remain their responsibility.

9. MEETING OF THE OWNERS

9.1 Either the Managing Agent or 5 Owners acting together shall be entitled at any time to call a meeting of the Owners to be held at such reasonably convenient time and place as the convenor(s) of the meeting select provided that they shall have given at least 21 days' written notice (save emergencies when a shorter reasonable notice period may be applied) to the Owners and (if not the convenor) the Managing Agent. In addition to detailing the time and place of the meeting, such notice must specify an Agenda for the meeting and give information, in reasonable detail, of all items to be voted on at such meeting. Any inadvertent failure to comply with Clause 9.1 will not affect the validity of the proceedings at any meeting.

9.2 At any meeting so convened, any Owner may be represented by any person as mandatory appointed by written mandate (either specific or general) to attend, vote and act on behalf of the relevant Owner and any mandatory can act and vote on behalf of more than one Owner with separate votes for each. For the avoidance of doubt all references in this Clauses to the Owners shall include their mandatories.

9.3.

9.3.1 The Owners holding sixty per cent of the relevant votes (i.e., 6 Owners) shall require to be present or represented by a mandatory in order to form a *quorum* at any such meeting;

9.3.2 If there is still no quorum thirty minutes after the time fixed for the meeting then:

(a) the meeting is to be postponed until such date (being not less than seven nor more than twenty-eight days later) as may be specified by the Managing Agent (or, if the Managing Agent is not present by a majority of the Owners present or represented), and

(b) the Managing Agent (or any Owner) is to send to each Owner a notice stating the date and time fixed for the postponed meeting and the place where it is to be held.

9.3.3 A meeting may be postponed only once; and if at a postponed meeting the provisions in Clause 9.3.1 as respects a quorum are not satisfied, then the Owners who are present or represented are to be deemed a quorum;

9.3.4 If a meeting has begun, it may continue even if the number of members present or represented ceases to be a quorum.

9.4 The Managing Agent shall chair each such meeting unless the Owners decide otherwise. The Chairman at each such meeting shall, at the outset, determine whether there is a *quorum* and, in this regard, he shall obtain and check all mandates. Further, as soon as practicable and in any event within fourteen days after the meeting date, the Chairman shall prepare and issue to all the Owners (and the Managing Agent if he was not in the chair) a Minute of all the matters decided at the meeting, which Minute shall include a note as to which Owners were present and the percentages of their votes cast for and against each resolution. The Managing Agent may charge additional fees for arranging, attending, and implementing the decisions of any meetings other than the Annual General Meeting.

9.5 Each of the Owners present at any such meeting shall be entitled to one vote.

If any Unit is at any time owned by more than one person then, for the purposes of this clause, only one person may vote for the unit and where any co-workers of a Unit disagree on how they shall vote no vote for said Unit shall be counted. On the other hand, where any person owns more than one /unit, that person shall have a vote for each Unit owned by him.

9.6 It shall be competent at any such meeting by a majority of the votes cast at a meeting but subject to Clause 10 below:

9.6.1 to make Management Regulations for the preservation, cleaning, use or enjoyment of the Common Parts;

9.6.2 to instruct the Managing Agent regarding the carrying out of any Common Maintenance Works or the provision of Services in relation to the Common Parts; and

9.6.3 All decisions made at any such meeting in accordance with the guidelines herein contained shall, subject to Clause 10, be binding on all the Owners whether present or otherwise.

9.7 Notwithstanding the foregoing provisions of this Clause 9 any decision to re-appoint dismiss and/or replace the Managing Agent and to approve the remuneration package of the Managing Agent, all as more specifically provided for in and subject to Clause 10 below shall require the approval of Owners holding at least Sixty-one per cent of the relevant votes (i.e., 7 Owners).

10. THE MANAGING AGENT

10.1 The Managing Agent for the Development shall be re-appointed, dismissed and/or replaced by the Owners as provided above.

10.2 Notwithstanding Clauses 9.1 and 9.7 above, until the earlier of the Relevant Day and the date occurring 5 years after the date of registration of this Deed, the power of appointment, re-appointment, dismissal, and replacement of the Managing Agent shall rest solely with the Developer and thereafter the Owners shall ensure that there is a Managing Agent appointed for the Building at all times, notwithstanding the dismissal of any Managing Agent from time to time. If the Managing Agent appointed by the Developer continues to be in place on the expiry of the said 5-year period the Managing Agent shall continue to act in accordance with the Deed of Conditions until the Managing Agent withdraws his services or is dismissed and/or replaced by the Owners as provided for under Clause 9 hereof.

10.3 Save for the Managing Agent's initial appointment by the Developer as provided above, the whole terms and conditions of appointment of each Managing Agent (including the remuneration package) shall be subject to consideration and approval at any such meeting and in all cases such appointment shall include the following:

- 10.3.1 An acknowledgement that in relation to each Unit, each of the Owners shall pay an equal share of all remuneration properly due to the Managing Agent.
- 10.3.2 A duty to provide or provide that the Services and the carrying out of Common Maintenance Works is carried out in a professional, efficient, and economic manner subject to such limitation on expenditure and other restrictions as the Owners may impose by all in compliance with the relevant legislation included but not limited to the Property Factors (Scotland) Act 2011.
- 10.3.3 A duty to have accounts prepared of its intromissions on or as soon as reasonably practicable after the Payment Days and if convened in accordance with Clause 9.1 hereof a duty to organise, attend and minute a meeting of the Owners to consider and approve such Accounts as soon as reasonably practicable after the expiry of the year in question.
- 10.3.4 A duty to effect and maintain adequate fidelity and professional indemnity insurance for such sum and with such Insurers as the Owners may approve from time to time.
- 10.3.5 A right to enter into such maintenance and service contracts with independent contractors as the Managing Agent considers appropriate subject to the above-mentioned limits and so long as such contracts can be terminated without penalty at any time after the first year on not less than three months' notice.
- 10.3.6 A duty to maintain a record identifying, for each of the Units, the name and a United Kingdom address for the current owners and a requirement to keep this up-to-date and to make it available to Owners on reasonable request unless the Managing Agent is prohibited from doing so by law.

- 10.3.7 In this regard each of the Owners shall, without delay, on becoming an Owner and thereafter on any change of name or United Kingdom address or disposal, give the Managing Agent full details in writing so than such record is kept up-to-date from time to time.
- 10.3.8 A duty to maintain and make available for inspection upon written request (and subject to payment of the Managing Agent's reasonable administrative fees in that regard) a file containing certified true copies of the minutes of all the Owners' meetings, which file will be delivered to the Owners or as they direct on termination of the Managing Agent's appointment.
- 10.4 The Managing Agent shall prepare, and present for information to the Owners on or as soon as reasonably practicable after the payment Days, a statement of the costs (including his remuneration and allowing for a reasonable float for contingencies) incurred by the Managing Agent in the preceding quarter in respect of the Development Common Parts and the Stair Common Parts. Each of the owners shall pay to the Managing Agent, on demand accompanied by an appropriate VAT invoice that Owners' share of such costs and that at each of the Payment Days in such year. If requested by the Managing Agent, payment shall be made direct debit and the Owners shall on demand complete and return any direct debit forms supplied by the Managing Agent for that purpose.
- 10.5 Where a party who is an owner disposes of his interest in a Unit during a quarter to which the Managing Agent makes up said accounts, he shall, jointly with the acquirer, notify the Managing Agent in writing of the date on which the disposal is effective along with the other details required for the purposes of maintaining the record in terms of Clause 10.3.6 above. From and after the later of the disposal date and the date of such joint notification, the acquirer shall take over the disposer's obligation to make payments on each of the Payment Days and the accounts shall be apportioned by the Managing Agent between the disposer and the acquirer *pro rata* according to the number of days in the quarter during which each was an Owner of the relevant Unit. The Managing Agent shall be entitled to charge an administration fee to the disposer for processing the change of ownership details and providing the apportioned accounts.
- 10.6 Interest at 4% per annum above the Base Rate of the Royal Bank of Scotland (or, in the event of there being no such rate, some other reasonably comparable rate selected by the Managing Agent and notified to the Owners) shall be payable, on demand, by each of the Owners to the party entitled thereto on all sums due by them under or by virtue of this Deed in the event that the same shall not be paid within 14 days of the due date, running said interest from the due date until paid.
- 10.7 In order that the Managing Agent shall have a fund for the execution of repairs, renewals, maintenance and other charges, insurance premiums, factorial expenses and fees, each of the Owners shall pay the Managing Agent upon taking entry to their property a deposit of £750 (or such other sum as may be reasonably requested up to that figure) in respect of each Unit and that deposit so collected by the Managing Agent shall be held by him in trust on behalf of the said Owners for the foresaid purposes. In the event of the Owner of a Unit selling or otherwise disposing of his Unit the deposit shall be returned to him under

deduction of any share of charges accrued to the date of sale or disposal provided that the purchase of the Unit concerned has previously paid his contribution to the said fund. There shall be no interest paid or repayable on refund of the deposit and the Managing Agent reserves the right to vary the value of the said deposit from time to time.

- 10.8 Declaring that all expenses and charges incurred for any work undertaken and the services performed in terms of or in furtherance of and in accordance with the provisions herein contained and the remuneration and expenses of the Managing Agent shall be repayable by the Owner of the Units within the block of which the Unit forms part whether consenters thereto or not in the proportions detailed in these presents in the same way as if their consent had been obtained and, in the event of non-payment within one calendar month, the Managing Agent shall be entitled to sue for recovery of the same in his own name together with all expenses incurred by him and shall be obliged to pursue all debts diligently and timeously in accordance with good debt recovery management and that in the event of failure to recover such payments and/or expense of action, then such sums will be a real burden on the Unit to which it relates and the Owner shall be taken as jointly and severally liable with his singular successors in title for payment of all outstanding sums. The Managing Agent may register a Notice of Potential Liability for Costs in the Land Register against the title to the relevant Unit or take such other steps as are reasonably required to recover all sums due following a failure by an owner to pay such sums.

11. DISPUTES AS TO NEED FOR WORKS

- 11.1 If consequent upon any meeting of the Owners convened as provided above, there is any dispute or difference between any of the Owners as to whether or not any Common Maintenance Works or Services should be carried out or provided for the Common Parts then, notwithstanding any decision taken at the meeting and whether or not there was a *quorum* at the meeting, any of them shall be entitled to refer the question of the necessity for carrying out the proposed Common Maintenance Works or the requirement for the Services to an independent Chartered Surveyor (who shall act as an expert and not as an Arbiter) to be appointed, on the application (which shall forthwith be copied to the other Owners) of any of the Owners, by the Chairman (or senior acting office holder) of the Scottish Branch of the Royal Institution of Chartered Surveyors (as constituted, formed or re-formed from time to time). Such expert shall give all the Owners an opportunity to state their case to him in such form as he shall decide and if he shall consider that all or any part of the proposed Common Maintenance Works or Services are necessary, he shall have power to order it to be executed forthwith (or for the Services to be provided) and the expense thereof shall be borne by the Owners in the same way and same manner as if Common Maintenance Works or Services had been ordered or sanctioned at a meeting of the Owners convened and held as aforesaid: Provided always however that any Owner desiring to call for a reference to an expert under this Clause must give written notice to all the other Owners of his intention to do so within 14 days (time being of the essence) of the date of the relevant meeting failing which his right to call for a reference in regard to the matter in question shall be lost.

11.2 The expense of any such application to said Chairman (or other), the expert's fee and any other expense incurred by him incidental to the reference shall be allocated amongst the Owners as the expert directs, failing which they shall be borne by the Owners in their respective Building Proportion, as the case may be.

11.3 For the avoidance of doubt, once any Owner has timeously given notice of his intention as aforesaid, any of the Owners may initiate the appointment of an expert to resolve the matter and, if they do so, they shall, at the same time, send a copy of their application to the other Owners.

12. NOTICES

12.1 Any notice under Clause 9 above to an Owner or the Managing Agent shall be in writing and shall be sufficiently served if delivered by hand or send by Recorded Delivery Post to, in the case of an Owner, his last known address in the United Kingdom as advised to the Managing Agent in terms of Clause 10.3.6 above (or in the case of the Residential Owners to the Unit owned by him, or in the case of the Developer to the Developer's registered office) and, in the case of the Managing Agent, his address as last notified to all the Owners.

12.2 Any notice delivered by hand shall be deemed duly serviced when delivered to the appropriate address, while any notice sent by Recorded Delivery Post shall be deemed duly served three days after the day of posting. In proving service, it shall be sufficient to prove that the envelope containing the notice was duly addressed in accordance with this Clause and posted to the place to which it was addressed.

13. VARIATION AND DISCHARGE OF COMMUNITY BURDENS

13.1 The community burdens created in this Deed may be varied or discharged in respect of the whole Development or any part of the Development, and to the extent that the condition is a community burden.

13.2 A community burden may be varied or discharged by a deed of variation or discharge under Section 33 of the Title Conditions (Scotland) Act 2003 granted:

13.2.1 by or on behalf of the Owners of at least 75 per cent of the Units;

14. DATE AND CREATION AND APPLICATION

14.1 The real burdens imposed by this Deed will take effect, in respect of a Unit, on the date of registration in the Land Register of Scotland of a disposition of that Unit, in which the real burdens in this deed are expressly stated to apply.

15. LAND TRIBUNAL APPLICATIONS

15.1 No application may be made to the Lands Tribunal for Scotland under Sections 90(1)(a)(i) of the Title Conditions (Scotland) Act 2003 in respect of the community burdens and servitudes created in this Deed for a period of five years after the date of registration of this Deed in the Land Register of Scotland.

16. RESERVED RIGHTS

There is reserved to the Developer and any other party deriving right from the Developer and to any local or public authority and all other statutory undertakers concerned for their respective interests the right to use the Service Media existing or to be provided and all (if any) other services in, on, under, through, or over the Building with right of access at all reasonable times for the purpose of inspecting, repairing, improving, cleansing, emptying, maintaining, renewing or removing the Service Media subject to reinstating any damage caused as a result.

17. REAL BURDENS

17.1 This Deed is a constitutive deed creating real burdens within the meaning of Sections 4 and 122(1) of the 2003 Act. All the provisions herein are declared to be real burdens and conditions and where appropriate positive servitudes or ancillary burdens affecting the Building and each of the Units in so far as applicable thereto.

17.2 A proprietor wishing to enforce a real burden contained herein shall require an interest to enforce within the meaning of Section 8(3) of the 2003 Act: IN WITNESS WHEREOF these presents typewritten on this and the 19 preceding pages together with the Schedule and Plan annexed and signed as relative hereto are subscribed for and our behalf by William Christopher Tulips, authorised signatory, at Hamilton on 24th August 2023 in the presence of Kim Lamie of 118 Cadzow Street Hamilton

Kim Lamie

W Christopher Tulips

This is the Schedule referred to in the foregoing Deed of Conditions by CARMICHAEL HOMES WEST
END LIMITED

Part I

BUILDING PROPORTIONS

Development Common Parts

Relative to Development Common Parts Building Proportions means each Owner shall pay
a 1/10th share.

Stair Common Parts

Relative to Stair Common Parts Building Proportion Means each Owner shall pay a 1/10th share

Part II

Services

- 1. Maintaining Development Common Parts and Stair Common Parts**
 - 1.1 Carry out Common Maintenance Works in respect of the Common Parts.
 - 1.2 Pest Control.
 - 1.3 Storage, compaction, and disposal of refuse.
- 2. Maintaining etc. Apparatus, Plant, Machinery etc.**
 - 2.1 Providing maintenance, inspecting, repairing, renewing, replacing, upgrading and operating all plant machinery apparatus and equipment within and forming part of the Common Parts from time to time including the fire alarm, sprinkler, smoke detection apparatus, and mechanical ventilation systems.
 - 2.2 Cleaning, heating, lighting, and ventilating the Common Parts (including the costs of fuel).
 - 2.3 Lift and other equipment such as door entry system, TV and radio aerials, fire detection system, dry riser, heating equipment/systems.

2.4 CCTV or surveillance equipment.

3. Insurance

- 3.1 Arranging property owners' liability insurance to cover the Common Parts and fully comprehensive cover for the lifts.
- 3.2 Instigating employer's liability insurance cover should this be relevant.
- 3.3 Maintaining for the Owners any other insurances required in terms of this Deed.

4. Redecoration of Common Parts

Arranging future redecoration of all communal internal and external painted surfaces within the Development.

5. Other services

5.1 The provision, maintenance and renewal of any other equipment and the provision of any other service which, in the reasonable opinion of the Managing Agent, it is reasonable for the Managing Agent to provide for maintaining and securing the facilities and amenities of the Development.

Blamie

W. C. G. T. J. P.

Contractor not only to figure dimensions which are to be checked on site

Hamilton 24/8/23
This Plan refers to the
The Corgi Dev of
Conditions by Cambridge
Homes West-Cord Ltd



- COMMON ROOF
- COMMUNAL BIN STORE
- COMMON AREAS
- PRIVATE PARKING
- GAS METERS
- SITE BOUNDARY

* THIS DRAWING IS FOR TITLE PURPOSES ONLY. NOT CONSTRUCTION



SITE PLAN
1:100

Blairnie WCA Ltd

NO.	DATE	DESCRIPTION	BY	CHKD BY
1	24/08/23	ISSUED FOR PERMIT	WCA	WCA

INFORMATION

Project Name: **Blairnie WCA**
 Project Location: **Blairnie WCA, Edinburgh**
 Client: **Blairnie WCA**
 Architect: **THE THAIN ARCHITECTURE + PLANNING**

Scale: 1:200 (A1)
 Date: 24/08/23
 Drawn by: WCA
 Checked by: WCA
 No: 001

THE THAIN
 ARCHITECTURE + PLANNING
 2 North Street, Aberdeen, AB10 1SL
 Telephone: 01224 642777
 Email: info@thain.co.uk
 Website: www.thain.co.uk