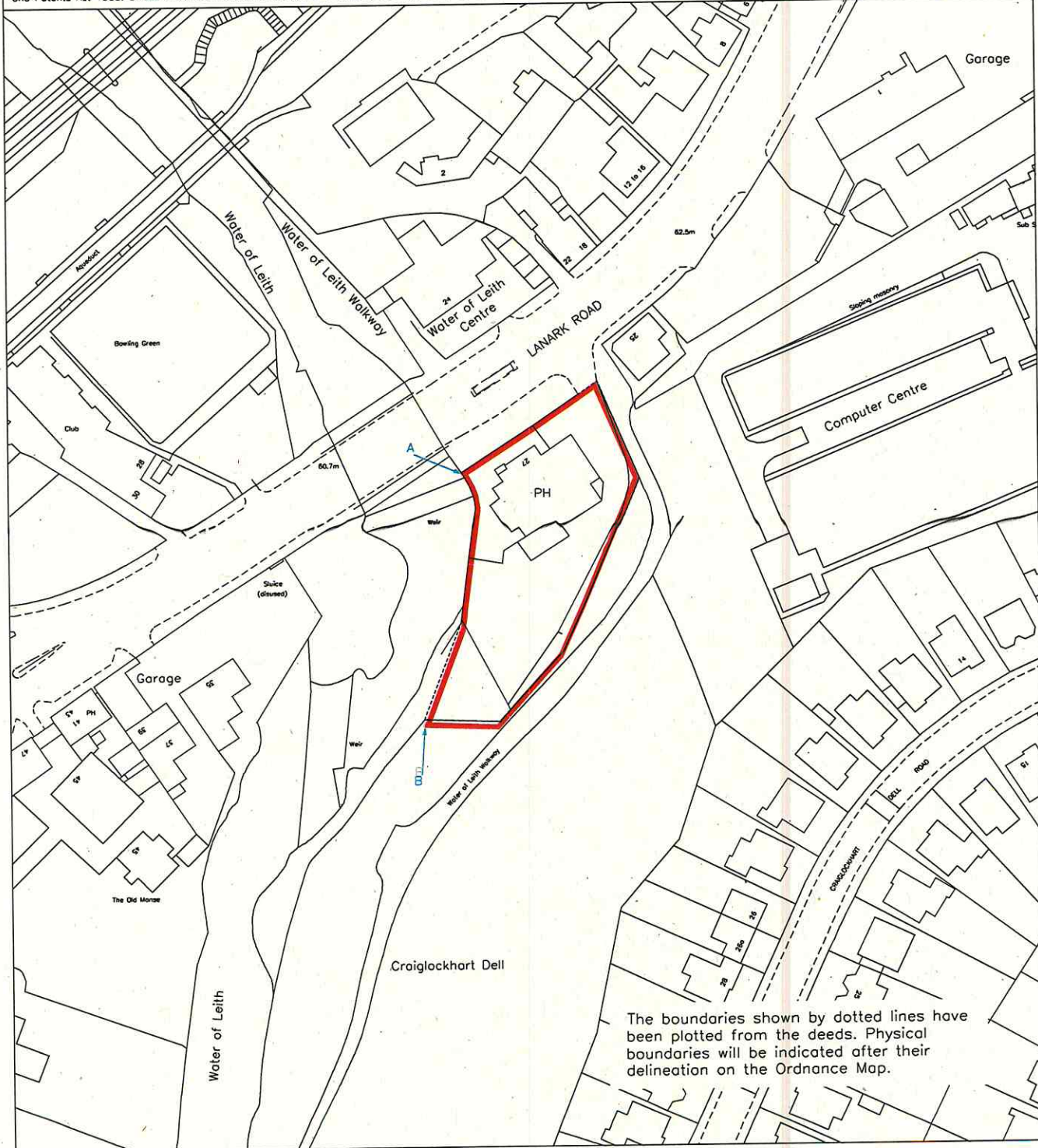


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LAND REGISTER OF SCOTLAND



TITLE NUMBER MID70344

A 1

A. PROPERTY SECTION

DATE OF FIRST REGISTRATION
20 DEC 2004

DATE TITLE SHEET UPDATED TO
14 APR 2022

REAL RIGHT
OWNERSHIP

DESCRIPTION

Subjects cadastral unit MID70344 THE BLUE GOOSE, 27 LANARK ROAD, EDINBURGH EH14 1TG edged red on the cadastral map.

- Note 1 The boundary between the points lettered A - B in blue on the cadastral map is the bank of The Water of Leith .
- Note 2 The minerals are excepted. The conditions under which the minerals are held are set out in the Feu Charter in Entry 2 of the Burdens Section.



LAND REGISTER OF SCOTLAND



TITLE NUMBER MID70344

B 1

B. PROPRIETORSHIP SECTION

ENTRY PROPRIETOR

NO

1 CARMICHAEL HOMES EDINBURGH
II LIMITED incorporated
under the Companies Acts
(Registered No SC688132)
and having their Registered
Office at Oakfield House,
378 Brandon Street,
Motherwell, ML1 1XA.

DATE OF
REGISTRATION
09 APR 2021

CONSIDERATION
£2,280,000

DATE OF ENTRY
08 APR 2021



LAND REGISTER OF SCOTLAND



TITLE NUMBER MID70344

C 1

C. SECURITIES SECTION

ENTRY NO	SPECIFICATION	DATE OF REGISTRATION
1	Standard Security by said CARMICHAEL HOMES EDINBURGH II LIMITED to BANK OF SCOTLAND plc incorporated under the Companies Act (Registered Number SC327000), Registered Office The Mound, Edinburgh EH1 1YZ.	05 AUG 2021



LAND REGISTER OF SCOTLAND



TITLE NUMBER MID70344

D 1

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

- 1 Disposition by James Watt, with a consent to Lord Provost Magistrates and Council of the City of Edinburgh and their successors, recorded G.R.S. (Edinburgh) 14 Aug. 1934, of 6.7 Acres of ground, contains the following right which is a burden on the subjects in this Title viz,:

Right of access to and egress from the said subjects from and to Lanark Road over the portion of the roadway extending from Lanark Road to the subjects hereinbefore disposed.

- 2 Feu Charter by Lawrence Steedman Miller to James Miller and his heirs and assignees (the feuars), recorded G.R.S. (Edinburgh) 22 Aug. 1934, of subjects, of which the subjects in this Title form part, contains the following burdens:

(One)

reserving always to me and my successors in said area of ground the whole mines, metals, minerals, fossils, coal, shale, limestone, marl ironstone, clay, freestone, slates, marble and other stone within and under the said area of ground hereby disposed with full power to me and my foresaids or any person authorised by me or them to search for, work, win, raise, calcine, manufacture and carry away the same but without entering on the surface of said area of ground and to do everything necessary for all or any of these purposes me and my foresaids paying to my said disponee and his foresaids all damages which the said area of ground and buildings thereon may sustain in or through the operations necessary for the exercise of the said reserved right and powers or any of them but such obligations shall only extend to the payment of damages occasioned by operations conducted by me or my foresaids or others deriving right through me or them as the said damages may be ascertained failing agreement by arbitration;

(Two)



LAND REGISTER OF SCOTLAND



TITLE NUMBER MID70344

D 2

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

my said disponees and his foresaids shall be bound to have erected and completed and thereafter to maintain on the feu disponed not less than one hundred and sixty dwellinghouses or shops; The said dwellinghouses and shops shall be so erected on such sites and lines (each dwellinghouse with appropriate offices and out-buildings which may include garages and garden ground and open space) and in accordance with such plans, elevations and specifications as shall be approved by me or my foresaids as Superiors of said area of ground;

(Three)

my said disponee and his foresaids shall be bound and obliged always to keep and maintain each of the said dwellinghouses with their respective offices and out-buildings (if any) and shops at all times in good and sufficient repair and likewise to keep each of the said dwellinghouses with their respective offices and out-buildings (if any) and shops insured against loss by fire with an Insurance Company of good standing and in the event of any house, shop or building thus insured being destroyed or damaged by fire or otherwise my said disponee and his foresaids shall be bound to restore the same and that within the period of one year from the time of such destruction or damage; and no house, shop or building shall be re-erected on a site or in a style different from that originally agreed upon without the written consent of me or my successors; And I and my foresaids shall at all times be entitled to require exhibition of the Insurance Policy or Policies effected in terms hereof and of the termly receipts for the payment of the premium or premiums due thereunder; And the said dwellinghouses shall in all time be used and occupied only as private residential houses, it being hereby specially provided and declared that it shall not be lawful to my said disponee and his foresaids without the consent in writing of me or my foresaids to use or occupy as or convert



TITLE NUMBER MID70344

D 3

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

any house or shop or any part of a house or shop or any building as or into an hotel, boarding house, hospital, nursing home or manufactory or to use any house or building or any part thereof or any garden ground or open space for any purpose which may be deemed a nuisance or likely to injure the amenity of the district; declaring without prejudice to the foregoing generality that it shall not be lawful to my said disponee and his foresaids to use or occupy or convert any dwellinghouse as or into a shop; And my said disponee and his foresaids shall be bound at all times to uphold all the said dwellinghouses and offices and out-buildings and shops in good order and repair and relative gardens and open spaces clean, tidy and well kept and

(Four)

the appropriate garden grounds for each of the said dwellinghouses shall be properly and suitably fenced off and divided from those adjoining with substantial fences of a style to be approved of by me; and my said disponee and his foresaids shall be bound to keep up and maintain in all time coming the whole boundary fences and division fences and parapet walls.

- 3- Disposition by The Post Office to Whitbread (Scotland) Limited, recorded G.R.S. (Midlothian) 4 Nov. 1969, of ground, bounded on north west by Lanark Road and adjacent to The Dell Inn, (now The Tickled Trout) Slateford, Edinburgh, contains the following burdens:

A servitude right, tolerance and wayleave irredeemable except as after mentioned in favour of us and our successors to inspect, repair, renew and maintain the fireclay drain not exceeding six inches in diameter through the subjects hereby disposed: Reserving power to us to enter at all reasonable times upon the subjects hereby disposed for the aforesaid purposes on all necessary occasions: Declaring that except in



TITLE NUMBER MID70344

D 4

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

the case of emergency we shall before opening the track of the said drain give three days' clear notice of our intention to do so and on completion of our operations and restoration of the surface we shall give immediate notice thereof to our said disponees: Declaring further that the said servitude right is reserved under the following real burdens and conditions;

(First)

The line of the said drain shall not be altered or enlarged without the consent of our said disponees being first obtained;

(Second)

The said drain shall lie at a depth of not less than three feet six inches and we shall rectify immediately any defect or default in the said drain however caused and shall maintain the same in a complete state of repair;

(Third)

We shall restore the surface of the ground so far as possible to the condition in which it was immediately prior to the commencement of any operations and clear the same of any debris to the reasonable satisfaction of our said disponees;

(Fourth)

We shall indemnify our said disponees from all disturbance, loss, injury and damage of whatever kind which may arise through or in consequence of the inspection, maintenance, repair, removal or existence of the said drain and any damage to the subjects hereby disposed shall be made good to the reasonable satisfaction of our said disponees;

(Fifth)



TITLE NUMBER MID70344

D 5

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

Our said disponees shall not be responsible for any damage or injury which the said drain may sustain and in particular shall not be liable for damage caused thereto by operations in connection with Post Office purposes;

(Sixth)

In the event of our failing to observe or committing a breach of any of the conditions and obligations hereinbefore written the said servitude right shall in the option of our said disponees terminate and become null and void at the date to be fixed by our said disponees being not less than one month after the date of written notice to us, and in the event of the permanent discontinuance of the use of the said drain or if from any cause the said servitude shall cease to be of use to us, we may be required at the option of our said disponees either

(one) to remove said drain and restore the ground at our expense within one month of our receiving intimation to that effect, or

(two) to leave said drain in situ all which shall then become the property of our said disponees.

- 4 Agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1972, registered 8 Aug 2019 between the City of Edinburgh Council (hereinafter referred to as the "Council") and Thistle Residential Limited (hereinafter referred to as the "Proprietors") in the following terms:

CONSIDERING

(One) that the Council is the planning authority for the City of Edinburgh in terms of Section 1 of the Town and Country



TITLE NUMBER MID70344

D 6

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

Planning (Scotland) Act 1997 (hereinafter referred to as "the 1997 Act");

(Two) that the Proprietors are entitled in terms of Section 75 of the 1997 Act, by agreement with the Council, in respect of land in the district of the Council as planning authority, to enter into an obligation restricting or regulating the development or use of the land, either permanently or during such period as may be prescribed by the agreement;

(Three) that the Proprietors applied to the Council for planning permission under the 1997 Act for the Development and the Council refused to grant said permission;

(Four) that the Proprietors submitted the Planning Appeal against the Council's refusal of the Application;

(Five) that by Notice of Intention by David Buylla, a Reporter appointed by the Scottish Ministers, dated 17 May 2019, the Reporter resolved to allow the Planning Appeal subject to the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement, completion of a legal agreement or unilateral undertaking to secure a developer contribution towards off-site affordable housing;

NOW THEREFORE the Council and the Proprietors have agreed and do hereby agree as follows:-

In this Agreement, including the preamble, the following words have the meanings ascribed to them as follows:-

"the 1997 Act" means the Town and Country Planning (Scotland) Act 1997, as amended;



TITLE NUMBER MID70344

D 7

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

"Affordable Housing" means housing of a reasonable quality that is affordable to people on modest incomes;

"Agreement" means this agreement granted in accordance with the terms of Section 75 of the 1997 Act;

"Appeal Site" means ALL and WHOLE the property situation at 27 Lanark Road, Edinburgh registered in the Land Register of Scotland under Title Number MID70344;

"Application" means the application for planning permission registered by the Council on 18 June 2018 under the reference 18/02817/FUL for the Development;

"Commencement Date" means the date on which the Development is initiated by the carrying out of any Material Operation;

"Commutated Sum for Affordable Housing" means the sum of TWO HUNDRED AND EIGHTY ONE THOUSAND TWO HUNDRED AND FIFTY POUNDS POUNDS (£281,250) STERLING to be applied by the Council for the provision of Affordable Housing Units on a site or sites elsewhere in the City of Edinburgh;

"the Development" means the development consisting of the demolition of the existing public house and erection of a residential development comprising 25 apartments and associated works on the Appeal Site in terms of the Planning Permission;

"Expert" means an expert who, insofar as possible, has been professionally qualified for at least 10 years in the field in which the Dispute arises;

"Index" means the All-in Tender Price Index figures as published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors on a quarterly basis,



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D 8

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

or if that ceases to be published or the basis upon which such index is calculated is substantially changed or rebased, such substitute or alternative index most likely to achieve an equivalent result as the parties may agree or, in the absence of agreement, as shall be determined pursuant to Clause 4.4 of this Agreement;

"Indexed" means increased in accordance with the following formula:-

$(bxc) \div a$

Where:

a equals the Index figure published in respect of the Commuted Sum for Affordable Housing as at Q.4 2018;

b equals the Index figure as at the date of payment of the relevant sum to be Indexed; and

c equals the relevant sum to be Indexed;

"Insolvency Event" means the occurrence in relation to any party bound by this Agreement of any of the following events: (a) the party becoming apparently insolvent; (b) the making of an order that they be wound up or the passing of a resolution for voluntary winding up; (c) the appointment of an administrative receiver or receiver and manager in respect of any of their assets and undertakings; (d) the making of any bankruptcy order or order for sequestration; (e) the making of any voluntary arrangement (corporate or individual) for a composition of debts; (f) the application for, or the appointment of, an administrator or the making of an administrative order; (g) the party being struck off the Register of Companies; (h) the appointment of a liquidator; or (I) the possession of any of the party's property under the



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D 9

D. BURDENS SECTION

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NO

SPECIFICATION

terms of a floating charge; or (j) any similar event which in the opinion of the Council is of like effect;

"Keeper" means the Keeper of the Registers of Scotland as defined in Section 113 of the Land Registration etc (Scotland) Act 2012;

"Material Operation" means a Material Operation in accordance with Section 27 of the 1997 Act. For the avoidance of doubt, this definition excludes:

i) any Material Operation undertaken in terms of any valid planning permission granted before the date of the Planning Permission; and

ii) the demolition of any existing buildings on the Appeal Site required for health and safety reasons or at the request or recommendation of Police Scotland;

"Planning Appeal" means the appeal to the Scottish Ministers (reference PPA-230-2266) against the Council's refusal of the Application;

"Planning Permission" means any permission granted by the Scottish Ministers pursuant to the Planning Appeal;

"Prescribed Rate" means the rate of 5% above the current United Kingdom Bank Rate set by the Bank of England;

"Working Days" means all days of the week excluding:

(i) Saturday & Sunday; and

(ii) all statutory holidays in Scotland; and

(iii) all national public holidays in Scotland; and



TITLE NUMBER MID70344

D 10

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

(iv)all Edinburgh local public holidays;

STATUTORY AUTHORITIES

3.1 If any provision in this Agreement shall, in whole or in part, be held to be invalid or unenforceable under any enactment or rule of law such provision shall to that extent be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected.

3.2 If any provision of this Agreement is held in any proceedings to be a provision which cannot competently be included or enforced in an agreement entered into under section 75 of the 1997 Act, such provision shall be enforceable to the same extent and effect as if this Agreement was an agreement in common form amongst the parties.

AFFORDABLE HOUSING

3.3 Commuted Sum for Affordable Housing

3.3.1 The Commencement Date shall not occur until the Proprietors have paid to the Council the Commuted Sum for Affordable Housing Indexed. In the event that the Commuted Sum for Affordable Housing, or any part thereof, is not paid timeously, interest shall be payable thereon (by the Proprietors to the Council) on demand at the Prescribed Rate until payment of the relevant sum in full.

3.3.2 The Council shall, on receipt of the Commuted Sum for Affordable Housing, or part thereof, pay it into an interest-bearing account held by the Council.



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D. BURDENS SECTION

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SPECIFICATION

3.3.4 The Council shall utilise the Commuted Sum for Affordable Housing towards the provision of Affordable Housing.

3.3.5 In the event of the Commuted Sum for Affordable Housing not being utilised in full by the Council within ten years of the date of receipt of payment by the Council then such contribution or the unused part thereof, as appropriate, together with any interest that has accrued thereon, shall be refunded to the Proprietors who paid it in terms of Clause 3.3.1 within 25 Working Days of a written request from the said Proprietors for repayment.

REFUSAL OR REVOCATION

4.1 In the event of the Planning Permission being refused, revoked or in any way falling, then all contributions specified in this Agreement, or the unused parts thereof, together with any interest that has accrued thereon, as appropriate, shall be refunded by the Council to the relevant Proprietors, or former Proprietors, which paid the Contributions within 25 Working Days of a written request being received from the relevant Proprietors or former Proprietors for repayment.

DISCHARGE AND MODIFICATION

4.2 In the event that the Proprietors apply to modify and/or discharge the whole or any part of this Agreement the Proprietors shall be responsible for the Council's reasonable legal expenses and outlays properly incurred in the negotiation, drafting, preparation, completion and registration of and any document required to enable registration of the Notice of Determination in the Land Register to give effect to the discharge and/or modification hereof.

ASSIGNATION



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D 12

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

4.3 The original Proprietors (who for the purpose of this clause are the Proprietors who signed this Agreement) shall not transfer or assign their rights and obligations under this Agreement or dispose of their interests in the Appeal Site (or any part thereof) prior to the presentation for registration of this Agreement in the Land Register of Scotland being completed.

DISPUTE PROCEDURE

4.4 The parties agree that any dispute or difference arising out of, under or in connection with this Agreement (a "Dispute"), can be referred to an Expert for determination and will be resolved in accordance with the procedure set out in Clauses 4.5 to 4.9 (Dispute Procedure).

4.5 The parties agree that they shall give effect immediately to every decision of each Expert or the Scottish Courts (as the case may be).

4.6 Notice of Expert Determination

(a) Any party entitled to refer a dispute for Expert determination (the "Referring Party") must give written notice to the other party of its intention to refer a dispute to an Expert under the procedures set out in these Clauses 4.5 to 4.9 (the "Notice of Expert Determination").

(b) A Notice of Expert Determination must:-

(i) set out the Referring Party's position;

(ii) set out the facts upon which that position is based;



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D 13

D. BURDENS SECTION

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SPECIFICATION

(iii) annex copies of any relevant correspondence and background material;

(iv) contain detailed particulars of the quantification of any claim made, if appropriate; and

(v) nominate an Expert.

(vi)

4.7 Appointment of Expert

(a) If the party other than the Referring Party is not satisfied with the Expert nominated by the Referring Party they must intimate that in writing to the Referring Party within 10 Working Days of receipt of the Notice of Expert Determination (time being of the essence) failing which the Expert nominated will be deemed to be approved.

(b) If:-

(i) the Expert approved (or deemed to have been approved) under Clause 4.7(a) has not accepted his appointment as Expert within 10 Working Days of the date of service of the Notice of Expert Determination; or

(ii) the Expert nominated in the Notice of Expert Determination has been properly rejected under Clause 4.7(a),

then any party may apply to the President of the Law Society of Scotland to nominate an Expert (who is within the same period to accept his appointment as Expert) to determine the Dispute as soon as practicable.

(c) When requesting the nomination of an Expert, the Referring Party must supply a copy of this Agreement and the Notice of



D. BURDENS SECTION

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SPECIFICATION

Expert Determination to the President of the Law Society of Scotland, who will have regard to the nature of the Dispute which is referred for expert determination when nominating an Expert.

(d) The date on which the Expert accepts his appointment will be the date of referral of the Dispute ("Referral").

(e) The Expert will be appointed as an expert not an arbitrator and the Arbitration (Scotland) Act 2010 and the law relating to arbitration will not apply to the Expert or his determination or the procedure by which he reaches his determination.

4.8 Expert Determination Procedure

(a) Provided the parties are given the opportunity to put their position on the matter in dispute to the Expert, the Expert has absolute discretion to decide on the procedure to be followed, including whether a hearing is necessary, to resolve the Dispute.

(b) In any event, the Expert must provide to the parties his written decision on the Dispute as soon as possible and no later than 20 Working Days after the Referral (or such other period as the parties may agree). Unless the parties otherwise agree, the Expert must give reasons for his decision.

(c) The Expert's decision, in the absence of manifest error, will be final and binding on the parties.

(d) The Expert must act impartially and may take the initiative in ascertaining the facts and the law.

(e) The Expert may open up, review and revise any opinion, certificate, instruction, determination or decision of whatever nature given or made pursuant to this Agreement,



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D 15

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SPECIFICATION

provided that any such opinion, certificate, instruction, determination or decision is not final and conclusive in nature under this Agreement (unless the parties expressly agree otherwise in writing).

(f) The Expert may appoint experts to advise on discrete technical or legal issues in relation to which, in the Expert's sole opinion, the Expert does not have the necessary expertise.

(g) All information, data or documentation disclosed or delivered by a party to the Expert in consequence of or in connection with his appointment as Expert must be treated as confidential. All such information, data or documentation will remain the property of the party disclosing or delivering it and all copies will be returned to that party on completion of the Expert's work.

4.9 Expert's Costs

(a) The Expert's costs (including those of any expert in turn appointed by the Expert in accordance with Clause 4.8(f)) will be borne as the Expert specifies or, in default, equally by the parties.

(b) The parties will each bear their own costs arising out of the expert determination, including legal costs and the costs and expenses of any witnesses.

ENFORCEABILITY

4.10.1 This Agreement is made pursuant to Section 75 of the 1997 Act, as amended, and it is agreed by the Council and the Proprietors that the obligations undertaken by the Proprietors in this Agreement shall be enforceable at the instance of the Council as planning authority against the Proprietors and persons deriving title to the Appeal Site or any part thereof



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D 16

D. BURDENS SECTION

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NO

SPECIFICATION

from the Proprietors, provided always that for the purposes of Section 75C of the 1997 Act, no person shall be liable for the performance, or any breach, of any obligation after they have disposed of their interest in the Appeal Site or the relevant part thereof, save in relation to any breach subsisting prior to disposing of such interest.

4.10.3 The terms of this Agreement shall not be binding on any utility company that acquires part of the Appeal Site for the purposes of providing services to the Development and the liability under this Agreement of the selling party in any such sale shall continue notwithstanding such sales.

4.10.4 Nothing (contained or implied) in this Agreement shall fetter or restrict the Council's statutory rights, powers, discretions and responsibilities.

REGISTRATION

4.11.1 The parties consent to registration hereof for preservation and execution in:

- (i) the Books of Council and Session; and
- (ii) the Land Register of Scotland .

4.11.2 The Proprietors (unless otherwise agreed with the Council) undertake, as soon as reasonably practicable after the last date of execution hereof, to concurrently register this Agreement:

- (i) in the Books of Council and Session; and
- (ii) against the Appeal Site in the Land Register of Scotland.



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D 17

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

The Proprietors shall as soon as reasonably practicable after registration deliver to the Council a registered extract of this Agreement;

4.11.3 In the event that the Keeper rejects the application for registration of this Agreement the Proprietors undertake to:

(i) within 2 Working Days of receipt of the Keeper's rejection letter, inform the Council in writing and supply a copy of the rejection letter from the Keeper;

(ii) promptly undertake such actions as may reasonably be required to allow the Keeper to accept this Agreement for registration, or a substitute agreement in terms agreed by the Council, acting reasonably.

4.11.4 The Proprietors undertake and warrant that:

(i) they shall not take steps to withdraw the application for registration of this Agreement in the Land Register of Scotland without the consent of the Council, such consent not to be unreasonably withheld; and

(ii) to the best of their knowledge and belief, at the date on which they execute this Agreement, they are not subject to, or under threat or warning of, any bankruptcy, insolvency proceedings, or other Insolvency Event, including voluntary insolvency or bankruptcy, and will not take steps to enter into any voluntary insolvency, bankruptcy, or other arrangements that may result in an Insolvency Event between the date on which they sign this Agreement and the updating of the Title Sheet by the Keeper disclosing this Agreement.

NOTICES



TITLE NUMBER MID70344

D 18

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

4.12.1 All notices which require to be given in terms of this Agreement shall be in writing and shall be deemed to be sufficiently served if signed by or on behalf of the party issuing the notice and either (i) delivered personally, or (ii) sent by pre-paid recorded delivery or registered post addressed:

(a) In the case of the Proprietors at their registered Office and, for subsequent persons with an interest in the Appeal Site (if a body corporate) at their Registered Office or Head Office, and (if an individual) at his last known address in the United Kingdom and (if a partnership) to the partnership and any one or more of the partners thereof at its last known principal place of business in the United Kingdom or (in any case) at such address as the Proprietors may have notified in writing to the Council;

(b) In the case of the Council, to the Council to both their Principal Office and to the City of Edinburgh Council, (Planning) Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG or to such other address as the Council may have notified to the Proprietors previously in writing;

and any such notice shall be deemed to have been served (I) if delivered personally, at the time of delivery, and (II) in the case of pre-paid recorded delivery or registered post, on the second Working Day after the date on which the same was posted.

4.12.2 In providing service, it shall be sufficient to prove that the envelope containing the notice was duly addressed to the Council or the Proprietors, as the case may be, in accordance with this Clause and posted to the place to which it was so addressed.

COMMUNICATION IN WRITING



D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

4.13.1 In the case of all requirements to communicate in writing in terms of this Agreement, except notices, it shall be acceptable for the written communication to be by either: (i) a letter signed by or on behalf of the party issuing the letter; or (ii) an email sent by or on behalf of the party issuing the email;

4.13.2 Where written communications are sent by post they shall be addressed:

(a) In the case of the Proprietors at their registered Office and, for subsequent persons with an interest in the Appeal Site (if a body corporate) at their Registered Office or Head Office, and (if an individual) at his last known address in the United Kingdom and (if a partnership) to the partnership and any one or more of the partners thereof at its last known principal place of business in the United Kingdom or (in any case) at such address as the Proprietors may have notified in writing, by post or email, to the Council previously;

(b) In the case of the Council, to City of Edinburgh Council, (Planning) Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG or to such other address as the Council may have notified to the Proprietors previously in writing, by post or email;

4.13.3 Where written communications are sent electronically by email they shall be addressed to:

(a) In the case of the Proprietors to David Maxwell <david@thistleproperty.co.uk> or to such email address as the Proprietors may have notified in writing, by post or email, to the Council previously;

(b) In the case of the Council to planning.agreements@edinburgh.gov.uk, or to such other email



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D 20

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

address as the Council may have notified to the Proprietors previously in writing, by post or email;

- 5 Deed of Conditions, registered 14 Apr 2022, by Carmichael Homes Edinburgh II Limited (hereinafter called "the Developer"), contains the following:

WHEREAS

(A) The Developer is the heritable proprietor of the Development;

(B) The Developer is carrying out the redevelopment of the three Buildings in the Development, 2 blocks each of 9 units and 1 block of 7 units (to form in total 25 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



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D 21

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

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 INTERPRETATION:

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 presently known as 27 Lanark Road Edinburgh EH14 1TG registered in the Land Register of Scotland under Title Number MID70344 on which the three blocks each totalling 25 units are to be erected;

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

(a) the entrances halls, passages, corridors, stairways, plant or storage rooms, bin stores, bicycle storage areas and bicycle racks, visitors and disabled parking spaces, 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



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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 fire fighting equipment not forming part of the Stair Common Parts;

(d) generally the whole structural frame of any of the blocks forming the Development and all other parts of or fittings in the Development which are part of the main structure of any of the blocks 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 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 tenantable 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.



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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 Park Property Management , 11 Somerset Place, Glasgow G3 7JT 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.



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"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 each of the three blocks 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, sprinkler systems and all fire fighting 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 1 system but excluding therefrom any



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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, any solar panels located thereon and all plant and machinery pertaining thereto, 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 owner 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



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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.



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"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 each of the three blocks which form 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 two 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;



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	<p>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</p>
	<p>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.</p>
	<p>2. COMMON PARTS</p>
	<p>2.1 The Development Common Parts shall be owned in common by the Owners of all 25 units in the Development who shall have an equal pro indiviso interest therein.</p>
	<p>2.2 The Stair Common Parts shall be owned in common by the Owners of the Units in the relevant Block who shall have an equal pro indiviso interest therein.</p>
	<p>3. DEVELOPMENT COMMON PARTS</p>
	<p>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 extend aftermentioned:</p>
	<p>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.</p>
	<p>3.2 Services: To pay a share to the extent of their respective Building Proportion in</p>



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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 each respective 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 aftermentioned:

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.



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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.



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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 tenantable 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 widows 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



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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 ensure that at all times 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 aftermentioned); 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 outwith 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.



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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 ensure that at all times (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 services and maintained and,



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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 floor or leak, the Owner or 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 outwith 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



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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 in particular 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 closed after usage at all times. 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.



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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, in particular 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 closed after usage at all times. 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;



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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 so as 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 of the other Owners.

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



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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 blocks 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



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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.



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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



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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 fifty one per cent of the relevant votes (including those represented by a mandatory) 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.



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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 or not 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 seven 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:



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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 in regard to 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 Fifty 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



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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



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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 that 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



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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 the course of 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 £300 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



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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 consentors 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



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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 Arbitrator) 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.



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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 sent 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:



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

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)(l) 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



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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 of 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

This is the Schedule referred to in the foregoing Deed of Conditions by CARMICHAEL HOMES EDINBURGH II LIMITED

Part I

BUILDING PROPORTIONS

Development Common Parts

Relative to Development Common Parts Building Proportions means each Owner shall pay a 1/25th share.

Stair Common Parts

Relative to Stair Common Parts Building Proportion Means each Owner shall pay a 1/9th or 1/7th share depending on the number of units in the block or building in question.

Part II

Services

1. Maintaining Development Common Parts and Stair Common Parts



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- 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.
 - 3.3 Maintaining for the Owners any other insurances required in terms of this Deed.
 4. Redecoration of Common Parts
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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.