



# LAND REGISTER OF SCOTLAND



TITLE NUMBER MID126572

D 1

## D. BURDENS SECTION

ENTRY  
NO

### SPECIFICATION

- 1 Disposition by Corporation of City of Edinburgh to Scottish Gas Board and their successors and assignees, recorded G.R.S. (Midlothian) 31 Jul. 1968, of inter alia area of ground, of which part of the subjects in this Title form part, contains the following burdens:

(One) the right and servitude of Wayleave in favour of us as successors of the County Council of the County of Midlothian for laying constructing and maintaining a pipe sewer in and through the said subjects hereby disposed as specified in a Disposition granted by the Duke of Buccleuch in favour of the said County Council recorded in the said Division of the General Register of Sasines on 15 Mar. 1894, (Two) the heritable and irredeemable servitude right and tolerance in favour of A B Fleming and Company Limited of laying and maintaining underground an eight inch pipe with all necessary works for the purpose of carrying water through the subjects and others hereby disposed by virtue of Agreement between us therein named the Lord Provost Magistrates and Council of the City of Edinburgh and the said A B Fleming and Company Limited dated 23 Apr. and 3 May 1934.

Note: As no plan to the Disposition recorded 15 Mar. 1894 was submitted to the Keeper it has not been possible to determine the location of the pipe in relation to the subjects in this title.

The Minute of Agreement dated 23 Apr. and 3 May 1934 has not been produced to the Keeper.

- 2 Disposition by Corporation of City of Edinburgh to Scottish Gas Board and their successors and assignees, recorded G.R.S. (Midlothian) 25 Oct. 1968, of piece of ground, of which the subjects in this Title partly form part, contains the following burdens:

(One) the right in our favour to lay and maintain a fireclay pipe not exceeding six inches in diameter in and through the said piece of ground hereby disposed from West Granton Road, Edinburgh, all as specified in a Minute of Agreement between the Edinburgh and Leith Corporations Gas Commissioners and us therein named, the Lord Provost, Magistrates and Town Council of the City of Edinburgh,



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dated 16 and 29 Nov. 1915 and (Two) the right and servitude of wayleave in favour of us as successors of the County Council of the County of Midlothian for laying, constructing and maintaining a pipe sewer in and through the said piece of ground hereby disposed as specified in a Disposition granted by the Duke of Buccleuch in favour of the said County Council recorded G.R.S. (Midlothian) 15 Mar. 1894.

Note: As no plan to the Disposition recorded 15 Mar. 1894 was submitted to the Keeper it has not been possible to determine the location of the pipe in relation to the subjects in this title.

The Minute of Agreement dated 16 and 29 Nov. 1915 has not been produced to the Keeper.

- 3 Deed of Servitude registered 16 Sep. 2003 is in the following terms:

We, Port Greenwich Limited (hereinafter referred to as "the Grantor" which expression where the context so admits shall include its successors and assignees whomsoever as heritable proprietors of the Servient Tenement as after defined) Whereas (ONE) the Grantor has become the proprietor of the land edged brown on Supplementary Plan 1 to the Title Plan for Title Number MID15716 under exception of the area of ground edged blue on said Supplementary Plan 1 (the said excepted area being hereinafter referred to as the "Retained Area") (the subjects referred to under exception as aforesaid being hereinafter referred to as the "Servient Tenement");

(TWO) Transco PLC (hereinafter referred to as "Transco" which expression shall where the context so admits include its successors and assignees as heritable proprietors of the Dominant Tenement as after defined) is the proprietor of (i) the P.R.S. Site, being the area tinted pink on said Supplementary Plan 1 and (ii) the Retained Area (which subjects referred to at (i) and (ii) above are hereinafter referred to as "the Dominant Tenement";

(THREE) Transco is a public gas transporter within the meaning of Section 7 of the Gas Act 1986 as amended by the Gas Act 1995 and is the owner of a gas transmission and distribution network which together with terminals, storage facilities and other apparatus comprise Transco's undertaking, and desires to maintain a pipeline or pipelines and ancillary apparatus in the Servient Tenement;

(FOUR) under the provisions of the Gas Act 1986 (as amended by the



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Gas Act 1995) Transco is directed to transmit gas on behalf of others; and

(FIVE) the Grantor has agreed to grant to Transco the servitudes hereinafter mentioned and Transco has agreed to grant the undertakings hereinafter contained the Grantor (to the intent that the servitudes hereby granted shall be appurtenant to Transco's undertaking and each and every part thereof) HEREBY GRANTS to and in favour of Transco as proprietors of the Dominant Tenement (a) heritable and irredeemable servitude rights to retain, lay, construct, inspect, maintain, use, protect, replace, remove or render unusable and, where required by statute and where the necessary works cannot be carried out from outwith the Servient Tenement, to enlarge a pipeline or pipelines for the transmission or storage of gas or other ancillary materials (whether such gas or materials are transmitted by Transco on its own behalf or on behalf of other persons) and with the consent of the Grantor (such consent not to be unreasonably withheld or delayed where such apparatus does not adversely impact on the Grantor's current and future use and occupation of the Servient Tenement) all necessary apparatus ancillary thereto (all hereinafter together called "the Servient Tenement works") in and under and in case of ancillary apparatus only, upon and over those strips of land lying in the Servient Tenement shown tinted yellow on said Supplementary Plan 1 which strips are 23.73, 22.1, 20, 12, 8.6, 7.7, 7.5, 6.63, 6.5 and 6 metres wide and which strip running eastwards from the P.R.S. Site along the southern boundary of the Servient Tenement is 4 metres wide on either side of the centre line of the pipe (all hereinafter called "the Strips") and to pass over the Strips for the purposes of the Servient Tenement works and of any necessary works of Transco contiguous therewith and over the Servient Tenement for the purpose of access to the Strips at all reasonable times and in an emergency access to the Strips at all reasonable times and in an emergency at any time whether or not with workmen vehicles machinery and apparatus; (b) a heritable and irredeemable servitude right for pedestrian and vehicular access and egress at all times to and from the P.R.S. Site over a five metre wide route within that part of the Servient Tenement shown hatched red on said Supplementary Plan 1 (the "Bellmouth Access"); Declaring however that (i) the Grantor shall be entitled to install an entrance barrier system at the Bellmouth Access at any time, subject to Transco's servitude right for pedestrian and vehicular access and egress as aforesaid being unaffected and (ii) in the event that the Grantor is only permitted by the Local Authority to use the



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Bellmouth Access as an access to the Servient Tenement then the Bellmouth Access shall be restricted to access to the P.R.S. Site and Servient Tenement only and the Grantor shall grant to Transco a heritable and irredeemable servitude right of pedestrian and vehicular egress at all times from the P.R.S. Site to either West Granton Road as aforesaid or Road 3 (as after defined) over an alternative route within the Servient Tenement to be specified by the Grantor (acting reasonably); (c) a heritable and irredeemable servitude right for pedestrian egress but only in cases of emergency (or for emergency drills on giving reasonable prior written notice to the Grantor of its intention to carry out such drills, and such drills not being carried out more than once in any calendar year) from the P.R.S. Site to the road hatched green on said Supplementary Plan 1 ("Road 3") over the route within the Servient Tenement hatched blue on said Supplementary Plan 1; (d) a heritable and irredeemable servitude right for pedestrian and vehicular access at all times to and from the Retained Area from and to West Shore Road, Edinburgh over the route within the Servient Tenement tinted green on said Supplementary Plan 1 and (e) a heritable and irredeemable servitude right to retain, inspect, maintain, use, replace, protect, remove or render unusable a power cable or such other type of service media as is appropriate for the transmission of power to serve the pressure reduction station constructed or to be constructed on the P.R.S. Site in and under that strip of land lying in the Servient Tenement shown by a broken green line on said Supplementary Plan 1 and (f) a heritable and irredeemable servitude right to retain, inspect, maintain, use, replace, protect, remove, or render unusable a pipe to discharge effluent from the P.R.S. Site over the route within the Servient Tenement shown by a broken red line on said Supplementary Plan 1 to connect into the public sewerage system laid or to be laid within Road 3 AND Transco by its execution hereof HEREBY UNDERTAKES to the Grantor as follows:

1.

1.1 In exercising the servitude rights hereby granted Transco shall take all reasonable precautions and comply with all reasonable requests of the Grantor to avoid obstruction to or interference with the use of the Servient Tenement and damage and injury thereto;

1.2 Transco shall so far as is reasonably practicable make good all damage or injury to the Servient Tenement caused by the exercise by



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Transco of the servitude rights hereby granted and/or by any breach by Transco of or failure to perform or fulfil any of its obligations hereunder and shall make full compensation to the Grantor in respect of any such damage or injury in so far as the same shall not have been made good as aforesaid;

1.3 Transco shall insofar as reasonably practicable (but without prejudice to its statutory duties and obligations) so long as the Servient Tenement works are used for or in connection with the transmission or storage of gas or other materials as aforesaid keep the Servient Tenement works in proper repair and condition and upon abandonment of the Servient Tenement works or any part thereof (notification whereof shall be given to the Grantor by Transco) shall render the same permanently safe;

1.4 Transco shall keep the Grantor indemnified on demand against all actions claims or demands arising by reason of the exercise of the servitude rights hereby granted or of any failure to keep the Servient Tenement works in proper repair and condition as aforesaid (except any such actions claims or demands as may be occasioned by the default or wrongful act of the Grantor or his servants or agents);

1.5 Transco shall indemnify and keep indemnified the Grantor on demand against all loss damage claims demands costs and expenses which may arise or be incurred by virtue of any damage or destruction of the Servient Tenement works or any apparatus or equipment attached thereto or used in connection therewith or any escape of any gas or other material whatsoever from the Servient Tenement works or any such apparatus or equipment as aforesaid where such damage destruction or escape is caused by the acts or omissions of any person other than the Grantor his servants or agents;

1.6 Transco shall pay all rates and taxes which may be imposed in respect of the Servient Tenement works or the servitudes or other rights hereby granted;

1.7 If at any time any interference with or disturbance of the functioning of any drains or drainage system in or under its land can be shown by the Grantor to have been caused in the exercise of the servitude rights hereby granted then Transco shall so far as is reasonably practicable make good any damage or injury thereby caused and shall make full compensation to the Grantor in respect thereof insofar as the same shall not have been made good as



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aforesaid;

PROVIDED that the Grantor shall not settle or compromise any such action claim or demand as is referred to in Clauses 1.4 and 1.5 of this Clause without the prior consent of Transco;

The Grantor (to the intent and so as to bind the Servient Tenement and every part thereof into whosoever hands the same may come and to benefit and protect the servitude rights hereby granted) HEREBY UNDERTAKES to Transco as follows:

1.8 The Grantor shall not do or cause or knowingly permit to be done on the Servient Tenement anything calculated or likely to cause damage or injury to the Servient Tenement works and will take all reasonable precautions to prevent such damage or injury;

1.9 The Grantor shall not without the prior consent in writing of Transco make or cause or permit to be made any material alteration to or any deposit of anything upon any part of the Strips so as to interfere with or obstruct the access thereto or to the Servient Tenement works by Transco so as to lessen or in any way interfere with the support afforded to the Servient Tenement works by the surrounding soil including minerals or so as materially to reduce the depth of soil above the Servient Tenement works;

1.10 The Grantor shall not erect or install or cause or permit to be erected or installed any building or structure or permanent apparatus in through upon or over the Strips; PROVIDED that nothing in this clause shall prevent the Grantor from installing any necessary pipes drains wires or cables under the supervision and with the consent (which shall held or delayed) of Transco or its agents or carrying on normal operations of good estate management including fencing hedging landscaping and ditching not causing interference obstruction or material reduction of the depth of soil as aforesaid; and

1.11 The Grantor hereby agrees that in the event of (1) the Grantor acquiring heritable title to the area tinted blue on said Supplementary Plan 1 (the "Bellmouth") and (2) Transco so requesting in writing, the Grantor shall (at Transco's expense) vary the Bellmouth Access to extend over the Bellmouth on the said terms and conditions as provided in this Deed of Servitude, including provisos (i) and (ii) to paragraph (b); Declaring that the Grantor shall notify Transco as soon as reasonably practicable



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following the Grantor's acquisition of the Bellmouth.

### 2. ARBITRATION

2.1 Any dispute arising under Clause 1 hereof shall be determined in default of agreement by a single arbiter to be agreed upon between the parties hereto or failing agreement to be appointed on the application of either party (after notice in writing to the other party) by the Chairman or other senior officeholder of the Scottish Branch of the Royal Institution of Chartered Surveyors and for the avoidance of doubt the costs of the arbitration shall be part of the award of the arbiter.

### 3. ENVIRONMENTAL PROVISIONS

3.1 In this Deed the following terms shall be defined as follows:

"Hazardous Material" shall mean any substance (including but not limited to "controlled waste" within the meaning of Section 75 of the Environmental Protection Act 1990 ("EPA")):

(a) the presence of which may require work of containment restoration remediation or clean up to be undertaken under any applicable law whether on or off the Servient Tenement; or

(b) the presence of which causes or threatens to cause a nuisance whether private or public or a statutory nuisance within the meaning of Section 79 of the EPA; or

(c) the presence of which on adjacent properties could constitute a trespass by Transco; or

(d) which in an uncontained form may cause pollution of the environment (the expression "environment" being defined in Section 1(2) of the EPA) or harm to human health or detriment to the amenities of the locality; or

(e) which is otherwise toxic explosive corrosive radioactive carcinogenic or mutagenic; or

(f) without limitation which contained polychlorinated biphenyls (PCBs) asbestos or urea formaldehyde foam insulation

"Environmental Requirements" shall mean all applicable present and future authorisations registrations duties of care codes of conduct



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laws regulations standards and notices permits consents approvals and licences issued imposed or directed by any relevant body (including but not limited to a United Kingdom Government Department Authority or Inspectorate a Local Authority a Waste Regulation Authority and the Scottish Environment Protection Agency) relating to:

- (i) the use of the Servient Tenement
- (ii) the processes of manufacture treatment storage disposal and release of Hazardous Material on under above in or about the Servient Tenement
- (iii) the transfer disposal and deposit of Hazardous Material
- (iv) the transportation of Hazardous Material to from or across the Servient Tenement
- (v) the health and safety of employees and visitors and contractors and other persons at or in the vicinity of the Servient Tenement
- (vi) otherwise relating to the protection of the environment and/or the protection of human health and all requirements pertaining to reporting notification and disclosure of information to employees to the public and to any relevant body aforesaid concerning any mater referred to above;

3.2 Transco shall at all times ad at its own cost and expense obtain and retain in full force and effect all Environmental Requirements whether existing at the last date of execution of this Deed of existing at any time thereafter and Transco shall not cause permit or suffer the existence or the commission by Transco its agents employees contractors or invitees or any other person of any non-compliance with or contravention of any such Environmental Requirements;

3.3 Notwithstanding Transco's obligations in this Deed it shall have no liabilities under this clause 3 as a result of the presence in on over or under the Servient Tenement or any adjoining or neighbouring property at the last date of execution of this Deed (being 12 Sep. 2003) of contaminative substances or Hazardous Material ("Contamination") or as a result of such previous present or future uses of the Servient Tenement or any adjoining or neighbouring property as have resulted in the release of contaminative substances or Hazardous Material ("Contaminative





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Uses") except where Contaminative Uses are a result of Transco's use of the servitude strip forming part of the Servient Tenement and/or its carrying out of the Servient Tenement works;

3.4 Transco shall rectify (or pay to make good or rectify) remediate remove treat or render harmless Contamination or rectify (or pay to make good or rectify) or remediate any damage or other adverse consequence (including, for the avoidance of doubt, any liability of the Grantor (a) in respect of containment, restoration, remediation or cleaning under any applicable law or (b) to any third party) of any Contaminative Uses where such Contamination or Contaminative Uses are as a result of Transco's use of the Strips forming part of the Servient Tenement and/or its carrying out of the Servient Tenement works.

### 4. SERVICE OF NOTICES

4.1 All communications relative to this Deed of Servitude shall be addressed to the Grantor at 1-3 Strand, London, WC2N 5EH (for so long as the Grantor is the said Port Greenwich Limited) and to Transco at Inchcolm House, 11 West Shore Road, Edinburgh, EH5 1RH and also at its Registered Office for the time being.

### 5. UNDERTAKINGS JOINT AND SEVERAL

5.1 Where the Grantor or Transco comprises two or more persons undertakings expressed to be made by the Grantor or Transco (as the case may be) shall be deemed to be made jointly and severally by such persons.

### 6. RIGHT TO VARY/RECOVERY OF COSTS

6.1 The Grantor shall be entitled to vary the routes of the Strips and servitude rights granted, provided (1) the access rights and others granted are not materially adversely affected (2) the Grantor makes payment of all reasonable costs and expenses incurred in relocating the Servient Tenement works (3) the varied route(s) is/are feasible and approved by Transco (such approval not to be unreasonably withheld) and (4) the points of ingress and egress of the diverted pipe or pipes or the Servient Tenement (or such part thereof as is applicable) remain the same;

6.2 Transco shall pay to the Grantor within 28 days of demand a fair and equitable proportion based on usage of the costs incurred by the Grantor in connection with the maintenance, repair and,



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where necessary, renewal of the access routes referred to above.

### 7. EXCLUSION OF THIRD PARTY RIGHTS

And subject to any rights which may accrue to any successor and/or assignee of either the Grantor or Transco no provision in this Deed of Servitude shall or may be construed as creating any rights enforceable by a third party and all third party rights as may be implied by law are hereby excluded to the fullest extent permitted by law from this Deed of Servitude.

- 4 Deed of Conditions, registered 16 Sep. 2003, by Port Greenwich Limited Proprietor of the subjects edged red on Supplementary Plan 2 to the Title Plan for Title Number MID15716, forming part of the subjects edged red on the Title Plan for Title Number MID15716, of which the subjects in this Title form part, provides and declares burdens &c. in the following terms, viz:

WHEREAS

(A) we are about to develop the Park (as hereinafter defined) and

(B) it is our intention to sell or otherwise dispose of individual sites within the Park and accordingly it is desirable to set out in writing the conditions and real burdens under which the same shall be held and the rights and obligations of the individual proprietors thereof NOW THEREFORE we hereby provide and declare as follows:-

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this Deed the following words and phrases shall have the meanings assigned to them below:-

"Access Roads" means the roadways, footpaths and cycle paths constructed or to be constructed approximately on that part of the Park shown coloured pink on the Developments Plots Plan [being Supplementary Plan 5 to the Title Plan for Title Number MID15716];

"Accounting Period" means a calendar year or such other period as the Management Company (acting reasonably) shall determine and notify in writing to the Proprietors in advance;



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"Common Costs" means the costs, expenses and outgoings reasonably and properly incurred by Port Greenwich in complying with its obligations in terms of Clause 11.2 hereof or in substitution therefor the Management Company in carrying out the Services and complying with its other obligations under this Deed;

"Common Parts" means those parts of the Park which are designed to be available for use by all or any two or more Proprietors including without prejudice to that generality the roadways (including the Access Roads), footpaths, cycle paths (but not car parking) the Green Swathe and the Quarry Pond (all insofar as not adopted for maintenance by the Local Authority), boundary fences, structural landscaping, tree belts and other landscaped areas, but excluding any part of the Park which (i) has been disposed to any individual Proprietor or group of Proprietors and/or (ii) comprises a Developable Area;

"Common Service Media" means the pipes, sewers, drains, ducts, culverts or other water courses, cables, wires and all other conducting media located or to be located and maintained in all time coming within the Park, except insofar as exclusively serving a single Property or adopted for maintenance purposes by the relevant local authority under declaration that the Telford Culvert shall not form part of the Common Service Media and shall be the sole property of the proprietor of the Telford College Site from time to time;

"Developable Areas" means the areas delineated in blue on the said Development Plots Plan comprising those parts of the Park which are expected by Port Greenwich to be developable UNDER DECLARATION THAT the categorisation of Developable Area by reference to the Plan shall not restrict or limit the right of

(A) Port Greenwich to develop or to convey or lease any part or parts of the Park for development (or otherwise) or

(B) Port Greenwich or in substitution therefor the Management Company, to designate parts of the Developable Areas as Common Parts or to change the designation of such parts subject to the access to and amenity of any Property not thereby being materially impaired;

"Development Plots Plan" means the said development plots plan forming Part 6 of the Schedule, which has been reproduced as



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Supplementary Plan 5 to the Title Plan for Title Number MID15716;

"Good Practice Guidelines" means the Good Practice Guidelines forming Part 8 of the Schedule as varied from time to time by the Management Company;

"Green Swathe" means the Green Swathe to be constructed by Port Greenwich within the Park the approximate location of which is shown coloured green on the Development Plots Plan marked Green Swathe;

"Interest in land" means the interest of a heritable proprietor;

"Management Company" means the Company established or to be established in terms of Clause 11;

"the Park" means the subjects in this title;

"the Plan" means the Plan, forming Part 5 of the Schedule being the area edged red on the Title Plan for Title Number MID15716

"the Prescribed Rate" means a rate four per cent per annum above the Base Rate of The Royal Bank of Scotland PLC or such alternative but reasonably equivalent rate as the Management Company may substitute by written notice in the event of such Base Rate being discontinued;

"Property" means any part of the Park (other than the Common Parts) separately conveyed by Port Greenwich or from time to time in respect of which Port Greenwich is vested in the interest of Proprietor together with the buildings and other erections thereon and all fixtures and fittings;

"Proprietor" means in relation to any part of the Park (other than the Common Parts), the party or parties who hold the Interest in land in that part;

"Proprietor's Representative" means in relation to each Property the Proprietor thereof (or his nominee/representative) or, if there is more than one such Proprietor, such party as is appointed as Proprietor's Representative by such Proprietors to factor the development from time to time formed on that Property (for the avoidance of doubt there shall not be more than one Proprietor's Representative in respect of a Property);



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"Quarry Pond" means the quarry pond the approximate location of which is shown coloured blue on the Development Plots Plan;

"Quarter Days" means 28 February, 28 May, 28 Aug. and 28 Nov. in each year;

"Relevant Percentage" means in relation to any Property the percentage calculated by reference to the formula:-

$100 \times A/B$  where

"A" is the gross site area (in square metres) of that Property; and

"B" is the gross site area (in square metres) of the Park as a whole (excluding the Common Parts);

"the Retail Site" means the subjects shown outlined in red on the Retail Site Plan which Retail Site is shown indicatively outlined in brown on the Development Plots Plan and is tinted pink on Supplementary Plan 2 to the Title Plan for Title Number MID15716;

"the Retail Site Plan" means the plan forming Part 9 of the Schedule;

"the Schedule" means the Schedule below;

"the Services" means the services and facilities provided for the benefit of the Proprietors and occupiers of the Park, as listed in Part 2 of the Schedule;

"Service Media" means pipes, sewers, ducts, culverts or other water courses cables, wires and other conducting media;

"Telford College Plan" means the Plan forming Part 7 of the Schedule;

"Telford College Site" means the subjects shown outlined in red on the Telford College Plan which Telford College Site is shown indicatively coloured yellow on the Development Plots Plan and is tinted blue on said Supplementary Plan 2;

"Telford Culvert" means the culvert carrying Caroline Park Burn so far as it passes through the Telford College Site;

"VAT" means Value Added Tax (including any in substitution or replacement thereof) at the rate ruling at the tax point of the



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charge giving rise to the tax;

"Visual Corridor" means a zone, typically of 8 metres in width, between Properties, or between areas designated for buildings or other structures within a Property, and identified as such in the Disposition or a plan annexed to such Disposition of a Property or by addendum to this Deed.

### 1.2 Interpretation

In interpreting the provisions of this Deed the following shall apply:-

1.2.1 Any obligation on a Proprietor not to do any act or thing includes an obligation to use reasonable endeavours not to allow or permit such acts or things to be done.

1.2.2 References to clause or paragraph numbers are references to the relevant clause of this Deed or the relevant paragraph of the Schedule.

1.2.3 Clause, paragraph and schedule headings in this Deed are for reference only and shall not affect the construction or interpretation thereof.

1.2.4 Words importing the singular shall include the plural and words importing the masculine shall include the feminine and vice versa and where there are two or more persons included in the expression "Proprietor" obligations expressed or implied to be undertaken by that Proprietor shall be deemed to be undertaken by such persons jointly and severally.

### 2. COMPLIANCE WITH DEED OF CONDITIONS

2.1 Each Property shall be held by the Proprietor thereof in all time coming subject to the conditions of this Deed.

2.2 The Common Parts shall be held by the heritable proprietor thereof in all time coming subject to the conditions of this Deed.

2.3 Except as expressly provided otherwise in this Deed, each Proprietor and the heritable proprietor of the Common Parts shall be entitled to enforce the provisions of this Deed against any other Proprietor or the heritable proprietor of the Common Parts which is in breach of its obligations hereunder and on each of the



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Proprietors including the heritable proprietor of the Common Parts there is expressly conferred a *jus quaesitum tertio*.

### 3. CONSTRUCTION WORKS

Each Proprietor and the Management Company shall procure that any construction works carried out on the property which it owns shall be carried out in accordance with the Good Practice Guidelines.

### 4. MAINTENANCE AND REPAIR

4.1 Each Proprietor and the Management Company shall be bound to maintain the exterior and structure of the buildings and other structures on the property which it owns (including fences, walls and signs) in a good state of repair and condition.

4.2 Each Proprietor and the Management Company shall maintain all unbuilt parts of its property (including car parking areas, footpaths and access areas) in a neat and tidy condition, free of any rubbish or debris and shall cut all grass within the said property on a regular basis and shall keep all landscaped areas and garden ground neat and tidy and free of weeds.

4.3 Neither the Management Company nor any Proprietor shall keep or store on any part of its property any caravan or moveable dwelling provided that this restriction shall not apply to temporary non-residential accommodation installed on any property in conjunction with the execution of any works of construction, alteration or refurbishment of any buildings, provided such temporary accommodation is removed as soon as reasonably practicable following completion of the works in question.

### 5. VISUAL CORRIDORS

5.1 Where a Property contains a Visual Corridor or any part of a Visual Corridor, such Property shall be subject to the regulations contained in Part 4 of the Schedule.

5.2 Where a Visual Corridor is contained partly within one Property and partly within another Property (typically so that the centre line of such Visual Corridor shall be the boundary between those Properties), the Proprietor of each such Property shall

5.2.1 be obliged to construct the part of the Visual Corridor within their Property in accordance with the possible treatments



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and uses specified in Part 4 of the Schedule;

5.2.2 act reasonably and in conjunction with the Proprietor of the remainder of the Visual Corridor in relation to the proposed design, construction, treatment and use of the Visual Corridor in order to produce a consistent treatment and use of the Visual Corridor;

5.2.3 be responsible jointly with the Proprietor of the remainder of the Visual Corridor for the maintenance, repair and where necessary renewal of such Visual Corridor in accordance with the regulations contained in Part 4 of the Schedule and each such Proprietor shall be burdened with an obligation to contribute an equal share of the cost of any maintenance of the Visual Corridor. Notwithstanding the foregoing the proprietor of the Telford College Site nor the Management Company from time to time shall not be obliged to contribute to the costs of construction maintenance repair or renewal of any access road forming part of the Visual Corridor lying within the Retail Site and serving the Retail Site only which access road will be the sole responsibility of the proprietor of the Retail Site from time to time.

5.3 The provisions in relation to Visual Corridors contained in this Deed shall be enforceable only by (a) the Management Company and (b) any Proprietor of the Visual Corridor (or part thereof) in question.

## 6. NUISANCE ETC

6.1 No Proprietor nor the Management Company shall cause or permit any smoke, grit or noxious or offensive effluvia or contaminants to be emitted from its Property or in the case of the Management Company, the Common Parts nor to allow any deleterious substances to enter the drains serving the Property.

6.2 No vehicles may be parked within the Park except within designated areas within each Property.

6.3 No Proprietor nor the Management Company shall cause any obstruction to any roads or footpaths within the Common Parts, cause any blockage or obstruction to any of the Common Service Media or carry on within the Property any process which causes excessive noise or vibration or which might constitute a nuisance to any other Proprietor(s) or the occupiers of any adjoining or





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neighbouring property.

### 7. SIGNS AND NOTICES

7.1 The Management Company shall, as part of the Services, erect and maintain such general location and directional signs at the entrance to and elsewhere within the Park as it may reasonably deem appropriate from time to time for the purpose of assisting visitors to the Park.

7.2 Individual Proprietors shall be entitled to erect and maintain identification signs at the main access into their Property of a style and size approved by the management Company, whose approval shall not be unreasonably withheld nor a decision thereon delayed.

7.3 Directional, traffic parking or other control signs within each Property shall not require prior approval, but shall so far as reasonably possible, be visually unobtrusive from outwith the Property.

7.4 No flashing or moving elements in signage will be permitted so as to be visible from outwith the Property.

7.5 Save as provided for in Clause 7.2 no other identification devices in the forms of flats, graphics or otherwise shall be permitted on any Property except with the prior written approval of the Management Company (such approval not to be unreasonably withheld or delayed).

### 8. USE OF COMMON PARTS

8.1 Each Proprietor shall have a right in common along with all other Proprietors and the Management Company to the use and benefit of the Common Parts.

8.2 The management Company shall be entitled to impose reasonable rules and regulations for the better operation of the Common Parts having regard to the interests of the Proprietors as a whole and all Proprietors shall be bound to comply with such rules and regulations insofar as the same have been notified to them in writing.

8.3 No buildings or other structures (other than items of public art, signs and accommodation for (i) security and/or maintenance personnel and storage employed by Port Greenwich or in substitution



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therefor the Management Company or (ii) any equipment relating to such maintenance or security personnel) shall be erected or placed on the Common Parts.

### 9. SERVICES

9.1 Each of the Proprietors will have a non-exclusive heritable and irredeemable servitude right, tolerance and wayleave over and through all relevant parts of the Park for the installation of, connection with, repair, maintenance and for all such other necessary purposes including inspection, cleaning, replacing and otherwise dealing with Common Service Media and to use and maintain in the Park such Common Service Media as serve a Property with access in favour of the Proprietor of a Property to such Common Service Media (or Service Media serving solely that Property situated under other parts of the Park) over the relevant parts of the Park in so far as shall be reasonably necessary for the purposes specified in this Clause 9.1 and subject always to the remaining provisions of this Clause 9.

9.2 Before exercising the right to install new Common Service Media the Proprietor exercising such right shall obtain the proprietor written consent of any other Proprietor affected by such exercise to the route of such Common Service Media (such consent not to be unreasonably withheld or a decision thereon unreasonably delayed) but declaring that consent may be withheld if the route proposed fails to give due regard to any affected Property and/or the route proposed passes under the buildings or car parking areas on any of the affected Property and/or the route would be likely to cause material disruption to existing Common Service Media serving any affected Property.

9.3 Each of the Proprietors shall be bound at its own sole expense to provide for and execute all maintenance of any items of Service Media which shall service exclusively the Property belonging to it.

9.4 Liability for maintenance of any item of Common Service Media shall be a joint liability on the part of the Proprietors that share the use of the Common Service Media in question and those relevant Proprietors shall be burdened with the obligation to contribute an equal share of the cost of any maintenance.

9.5 Each of the relevant Proprietors shall be bound to exercise the rights and obligations contained in this Clause 9 so as to:-



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9.5.1 give reasonable prior written notice to the other relevant Proprietors and wherever practicable to exercise the same at such times and in such manner as the affected Proprietor may agree (being obliged not to act unreasonably) and in any event so as to respect the reasonable concerns and specific requirements of the Proprietors submitting thereto;

9.5.2 cause the minimum interference practicable; and

9.5.3 ensure that all physical damage thereby occasioned to the Park, the surface finishes thereof and any buildings or structures thereon is made good to the reasonable satisfaction of the Proprietors submitting thereto (the Proprietors being obliged to act reasonably) as soon as it is reasonably practicable.

9.6 In the event that the Proprietor considers that maintenance of any item of the Common Service Media to which it has a right under Clause 9.1 is necessary or desirable then before such maintenance is instructed, the Proprietor wishing to have those works carried out shall be bound to consult with such other Proprietors who have a right to such item of Common Service Media under Clause 9.1 with a view to reaching agreement as to the extent of the works, the contractor to be appointed and generally as to the manner in which such works are to be carried out and such Proprietor shall only be entitled to instruct such works and to recover the cost thereof from the other affected Proprietors if the other affected Proprietors have given its/their consent or the Arbiter has directed pursuant to Clause 14 that such maintenance should be carried out and in either of these cases the other Proprietor shall be bound to pay to the Proprietor who instructs such maintenance their share of the cost thereof calculated in accordance with Clause 9.4, and that within 10 business days of written demand (provided that such demand is accompanied by evidence as to the cost of such works) and failing payment such share shall bear interest at the Prescribed Rate from the due date until payment is made.

## 10. INSURANCE

10.1 The Management Company will be bound to keep the Common Parts constantly insured against loss by fire and other normal commercial perils for the full reinstatement value of the Common Parts and to maintain property owners' and public liability insurance cover in respect of the Common Parts.



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10.2 Each Proprietor will be bound to keep their Property constantly insured against loss by fire and other normal commercial perils for the full re-instatement value of the Property, and to exhibit a current and valid insurance policy to the Management Company when requested to do so.

### 11. MANAGEMENT COMPANY

11.1 Port Greenwich shall be entitled to establish a Management Company (to be named PGL Granton (Management Company) Limited or such other name as Port Greenwich may reasonably require) which shall be a company incorporated in Scotland and limited by guarantee and the initial Memorandum & Articles of Association of the Management Company shall be substantially in terms of the draft which forms Part 3 of the Schedule.

11.2 The management Company shall be responsible for procuring the carrying out of such of the Services as the Management Company shall determine necessary or desirable acting in the interests of good estate management for the benefit of the Proprietors as a whole and for any other purposes relating to the management and operation of the Common Parts.

11.3 The Management Company shall have full power and authority to instruct and have executed works falling within the scope of the Services and to instruct managing agents, factors, contractors and others for that purpose.

11.4 The Management Company shall be obliged to recover from each Proprietor the share of the Common Costs properly payable by that Proprietor in terms of Clause 13.

11.5 Until such time as the Management Company has been established and the Common Parts have been transferred to the Management Company in accordance with Clause 15 hereof, the functions of the Management Company under this Deed shall be discharged by Port Greenwich who shall be bound to carry out the Services in accordance with the provisions of this Deed and good estate management principles.

11.6 Each Proprietor shall, on the later of (i) the date of acquisition of its Property and (ii) the date of incorporation of the Management Company, be obliged to become a member of the Management Company and any member on disposing of its Property, or part thereof shall transfer its shareholding relating to that



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Property (or the appropriate proportion thereof) to the Purchasers of that Property.

### 12. RIGHTS OF ACCESS OVER PROPERTIES

12.1 Each Proprietor shall be bound to permit access over its Property on not less than seventy two hours' prior written notice (except in case of emergency) to the Management Company and to any other Proprietors for the purpose of carrying out inspection, repairs or renewals to any adjoining Property or to the Common Parts, but only where such works cannot be carried out without taking access to the Property, Proprietors or Common Parts in question.

12.2 The party exercising the foregoing rights of access shall cause as little disruption as reasonably practicable to the owners and occupiers of the Property in question and shall make good to the reasonable satisfaction of the relevant Proprietor, all damage caused in the exercise of such rights to such Property or any buildings thereon or any goods therein or any surface finishes or other parts of the Property.

12.3 In the event of any Proprietor failing to comply with its obligations under Clause 12.2, the Management Company shall, on giving 14 days notice in writing, be entitled to enter upon the relevant Property and to carry out such remedial works as may be required in terms of said Clause 12.2 and the costs of carrying out such remedial works shall be paid on demand by the Proprietor who has failed to comply with its obligations under Clause 12.2 together with interest at the Prescribed Rate from the date of demand until paid.

### 13. COMMON COSTS

13.1 The Proprietor shall be bound to pay to the Management Company (or as the Management Company shall direct) the Relevant Percentage of the Common Costs in accordance with the following provisions of this Clause. Where there is more than one Proprietor of a Property, the Proprietors of the Property shall notify Port Greenwich or in substitution therefor the Management Company of the appointment of the Proprietors Representative in respect of their Property in every case within 14 days of such appointment and such Proprietors Representative shall act as an agent for the Proprietors of the relevant Property. The Proprietors of each Property shall use all reasonable endeavours to procure that the Proprietors



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Representative performs and observe the roles to be performed and observed by him in terms of this Deed in relation to their Property.

13.2 For the purposes of calculating the Common Costs,

(One) there shall be excluded from the Common Costs (and any budget or estimate of the same)

(a) all costs and expenses incurred in the initial provision (initial provision for this purpose to include the cost of remedying defects and snagging items where properly the responsibility of the relevant contractor) of (i) roadways and footpaths (including without prejudice to the foregoing generality the Access Roads) and (ii) areas of structural and other landscaping and (iii) other Common Parts;

(b) all costs and expenses incurred by or on behalf of the Management Company by reason of the Management Company not having complied with its obligations under this Deed;

(c) sums paid to any person or entity who is connected with the Management Company or is an associate of the Management Company (as the terms "connected" and "associate" are defined in the Insolvency Act 1986) for management services or materials to the extent that the costs of those items would not have been paid had the services and materials been provided by persons or entities not connected with or an associate of the Management Company, on a competitive basis;

(d) any costs, fines or penalties incurred due to breaches by the Management Company of any statute or subordinate legislation and the defence of the same;

(e) all costs and expenses incurred by or on behalf of the Management Company in the eradication of all or any deleterious and hazardous substances in or in the vicinity of the Park or in respect of compliance by any Proprietor or the heritable proprietor the Common Parts or any part of the Park with any environmental legislation, by-laws or other regulations;

(Two) there shall be credited towards the Common Costs (i) the amount of all insurance monies received by the Management Company during the relevant Accounting Period by reference to damage of the Common Parts caused by the risk insured against in terms of Clause



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10.1, (ii) interest on any monies held by the Management Company on account of the Common Costs or collected by or on behalf of the Management Company during the relevant Accounting Period; (iii) any monies received by the Management Company from third parties towards the Common Costs;

(Three) the Management Company shall not be entitled to borrow monies to meet the Common Costs and in the event of the Management Company doing so the cost of borrowing (including interest) shall not form part of the Common Costs;

(Four) the Management Company shall not be entitled to establish a sinking fund by way of provision for anticipated expenditure in future Accounting Periods; and

(Five) the Management Company will be obliged to use all reasonable endeavours to ensure that any increase in the Common Costs and its impact on each Proprietor (having regard to the Relevant Percentage applicable to them) year on year throughout the currency of this Deed is minimised so far as practicable.

13.3 The Proprietor of each Property shall be bound to pay the Relevant Percentage (subject to Clause 13.6 below) of the estimated Common Costs for the forthcoming Accounting Period either (i) within 21 days of the date of request by the Management Company following the end of each Accounting Period or (ii) by equal quarterly payments in advance on the Quarter Days whichever the Management Company shall require.

13.4 Within three months after the expiry of each Accounting Period the Management Company shall cause to be prepared and issued to each Proprietor or (to the exclusion of the relevant Proprietors) the Proprietors Representative (as the case may be) a copy of audited accounts detailing the actual Common Costs for the Accounting Period in question, certified as true, accurate and fair by an external auditor who is a properly qualified accountant and confirming the proportion thereof attributable to each Property and such certificate shall be conclusive evidence of the sums due in respect of each Property save for manifest error.

13.5 In the event that the sums due by the Proprietors of a Property in terms of such certificate exceed the total sums already paid by those Proprietors for the relevant Accounting Period in terms of Clause 13.3 then the Proprietors of that Property or (to the exclusion of the relevant Proprietors) the Proprietors



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Representative shall pay to the Management Company the amount of such difference within 21 days of the service of the certificate. In the event that the total sums already paid for any Accounting Period under Clause 13.3 exceeds the sums due for the relevant Accounting Period in terms of said certificate then the excess shall be repaid within fourteen days of the date of the said certificate to the Proprietors of that Property or (to the exclusion of the relevant Proprietors) the Proprietors Representative in question.

13.6 If in the reasonable opinion of the management Company any element of the Common Costs has been incurred for the benefit of one or more Property but not for others, then the apportionment of the Common Costs among the Proprietors shall be adjusted appropriately on a fair and equitable basis.

13.7 Port Greenwich and in substitution therefor the management Company shall be bound to and shall have power to sue for and recover by legal process the amount of the estimated Common Costs or any other sums (including VAT) due and payable in terms of this Deed which have not been paid and shall also be empowered to sue on behalf of the Proprietors generally any persons responsible for damage to the Common Parts (including any of the Proprietors) and each of the Proprietors shall be taken bound to grant any further authority which may be necessary to give effect to this Clause.

13.8 Notwithstanding anything to the contrary contained herein if the Relevant Percentage of the estimated Common Costs or any other sums due and payable in terms of this Deed in respect of any Property or any part thereof remain unpaid or VAT in respect thereof remains unpaid after a demand for payment has been issued by Port Greenwich or in substitution therefor the Management Company and a decree of court has been obtained therefor (such unpaid part or VAT being referred to as the "Arrears"), Port Greenwich or in substitution therefor the Management Company shall be entitled, on expiry of the period of seven days after the date of such decree to receive and recover the Arrears together with the reasonable expenses incurred by Port Greenwich or in substitution therefor the Management Company in recovering such Arrears under deduction of the expenses awarded by the court so far as the same have been paid by the Defaulting Proprietor (as defined in Clause 13.9) from the remaining Proprietors of that Property in equitable proportions UNDER DECLARATION that the remaining Proprietors shall be entitled to recover the amount so contributed from the





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Defaulting Proprietor; and

13.9 Any unpaid sum due by any Proprietor (a "Defaulting Proprietor") towards or in respect of Relevant Percentage of the Common Costs payable in respect of his Property shall be a real burden on that part of the Property owned by such Defaulting Proprietor and such Defaulting Proprietor shall be taken jointly and severally liable with his successors in title for payment of any unpaid portion of the Property referable to his part of the Property.

### 14. DISPUTES

Any questions, disputes or differences which may arise between any one or more Proprietors and/or the Management Company arising from the provisions of this deed or generally in relation to the operation and management of the Park shall be referred to a single Arbiter for determination, such Arbiter to be suitably qualified to adjudicate on the matter in question and to be appointed, failing agreement by the parties to the dispute, by the Chairman or Senior Office Holder for the time being of the Royal Institution of Chartered Surveyors in Scotland and the decision of the said Arbiter shall be final and binding on the parties to the dispute including as to costs.

### 15. OWNERSHIP OF COMMON PARTS

15.1 Port Greenwich shall retain ownership of the Common Parts subject to the rights of all Proprietors to use the same in terms of this Deed and otherwise in terms of their titles.

15.2 Notwithstanding Clause 15.1 above, Port Greenwich shall be entitled (and in the circumstances set out in Clause 15.3 below, shall be bound) to transfer ownership of the Common Parts (including any areas which have been adopted for maintenance by the Local Authority) to the Management Company in consideration of a payment of £1 only and the costs of transferring and completing title to the Common Parts shall be excluded from the Common Costs.

15.3 Port Greenwich shall procure that ownership of the Common Parts (including any areas which have been adopted for maintenance by the Local Authority) is transferred to the Management Company by the earlier of (i) the tenth anniversary of the date of registration of the Deed of Conditions in the Land Register of Scotland and (ii) the date falling six months after the date on



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which Port Greenwich ceases to have an Interest in land in respect of at least 5% of the gross site area of the Park (excluding the Common Parts).

### 16. VAT

17. In every case where in this Deed a Proprietor is obliged to pay an amount of money such amount shall be regarded as being exclusive of all VAT which may from time to time be payable thereon and such party, in exchange for a valid VAT invoice shall pay to the Management Company (or other party entitled to receive payment of the amount of money) such amount of VAT at the rate for the time being in force as shall be legally payable in respect of such amount of money.

### 18. CONSTRUCTION TRAFFIC ETC.

18.1 Each Proprietor shall, in relation to construction and other works being carried out on his Property be bound:-

18.1.1 to procure that such works are carried out in a manner which will cause as little inconvenience and disruption to each of the remaining Proprietors, and the heritable proprietor of the Common Parts as shall be reasonably practicable;

18.1.2 to make good any damage caused to the Common Parts caused by construction traffic;

18.1.3 to remove all mud and other substances from the Common Parts deposited by said construction traffic;

18.1.4 to procure that construction traffic uses such roads, access ways and others as designated by the Management Company from time to time.

### 19. VARIATIONS

19.1 The Management Company reserves the right to alter or deviate from any Plan for the Park and to add to or remove from the Common Parts any area of ground provided that the access to and amenity of any Property and the rights hereby granted are not thereby materially impaired subject to the Relevant Percentage not thereby increasing if areas are removed, but decreasing accordingly if there are areas added to the Common Parts and the Proprietors of each Property will be obliged following a request to do so by the



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Management Company to enter into and appropriate and reasonable Deed of Variation of this Deed of Conditions to document any such alterations.

### 20. REAL BURDENS AND CONDITIONS

The whole conditions, provisions, obligations, stipulations, reservations and others contained in this Deed are hereby created real burdens and conditions affecting the Park and every part thereof including the Common Parts and shall be binding upon the Proprietors and are heritable proprietor of the Common Parts in all time coming and the said conditions and others shall be incorporated or validly referred to in all conveyances and instruments of or affecting any part of the Park otherwise the same shall be null and void.

### 21. SECTION 17 LAND REGISTRATION (SCOTLAND) ACT 1979

We hereby provide and declare that the provisions of Section 17 of the Land Registration (Scotland) Act 1979 shall not apply to the Park.

THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING DEED OF CONDITIONS BY PORT GREENWICH LIMITED

#### PART 1 - DESCRIPTION OF PARK

the area outlined in red on Supplementary Plan 2 for Title Number MID15716

#### PART 2 - THE SERVICES

(1) Maintaining, repairing and, when beyond economic repair, renewing or replacing the Common Parts or any part thereof (insofar as not adopted for maintenance by the roads authority or other statutory body).

(2) Maintaining, repairing, operating and, when beyond economic repair, renewing or replacing lighting for the Common Parts.

(3) Maintaining and when necessary replacing all landscaped areas within the Common Parts including planting and pruning of trees, shrubs, hedges, gardens and grassed areas and keeping the same free from weeds and cutting the grass as required in accordance with



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good estate management principles.

(4) Keeping clear and free from litter and obstructions all culverts, burns, ditches and water features within the Common Parts.

(5) Erecting, maintaining, repairing and, when beyond economic repair, replacing all sign boards and directional notices within the Common Parts in accordance with Clause 7.1 (including the provision of lighting where appropriate).

(6) The provision of security for the Common Parts as a whole including the employment of full or part-time security personnel, the installation of closed circuit television cameras or other monitoring equipment and the provision of monitoring services for such equipment (including any services provided from a remote location).

(7) Collecting litter within the Common Parts.

(8) Enforcing reasonable rules and regulations for the better operation of the Park provided the same are for the general benefit of the Proprietors.

(9) Paying the proper and reasonable fees and salaries of auditors and other professional advisors and management personnel relative to the provision of the Services.

(10) Purchasing, servicing and replacing equipment, necessary for the repair and maintenance of the Common Parts.

(11) Keeping the Common Parts constantly insured against loss by fire and other normal commercial perils for the full reinstatement value of the Common Parts.

(12) Such other services and facilities as may from time to time be deemed appropriate for the benefit of the Proprietors of the Park as a whole.

PART 3 - MEMO AND ARTICLES OF MANAGEMENT COMPANY

THE COMPANIES ACTS 1985 AND 1989

COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL



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### MEMORANDUM OF ASSOCIATION

Of

[PGL GRANTON (MANAGEMENT COMPANY) LIMITED]

#### 1. The Company

1.1 The name of the Company is [PGL Granton (Management Company) Limited].

1.2 The Registered Office of the Company will be situated in Scotland.

#### 2. The Objects

2.1 The objects for which the Company is established are:-

3.1.1 Whether by itself or through other companies, firms or otherwise (and, where applicable, so far as not adopted from time to time by the local or statutory authorities) to manage, repair, renew, rebuild, maintain, clean, improve, develop, work, approve, demolish, control or construct or deal in any land, buildings, works, road, footpaths, cycleways, parking areas, storage facilities, bridges, watercourses, lighting, electric works, fences, walls and all other works, equipment and conveniences in connection with the proper management and maintenance of the common services and facilities now and in the future at Marine Drive, Granton, Edinburgh ("the Park") and to instruct, provide and carry out such other services and facilities all in accordance with the Management Criteria (such term having the same meaning herein as in the Articles of Association of the Company ("the Articles")) and to carry on all or any trades, processes and activities ancillary or complementary to or capable of being carried on in connection with any of the aforesaid;

2.1.2 To the extent permitted by the Deed of Conditions by Port Greenwich Limited dated [ ] and registered or about to be registered in the Land Register and by any other Deed or Deed of Conditions in force from time to time (hereinafter collectively referred to as "the Deed of Conditions") relating to the Park to enter onto the property of any Proprietor (such term having the same meaning herein as in the Articles) in order to carry out works permitted to be carried out by the Company in terms of the Deed of



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Conditions and generally to give effect to the Deed of Conditions;

2.1.3 Pursuant to and in terms of the Deed of Conditions to acquire and hold the heritable title to the Common Parts (as hereinafter defined) of the Park for the benefit of the Proprietors and not to dispose of or otherwise deal therewith except for the benefit of the generality of the Proprietors;

2.1.4 "Common Parts" shall mean those parts of the Park which are designed to be available for use by all or any two or more Proprietors including without prejudice to that generality the roadways (including Access Roads as defined in the Deed of Conditions), footpaths, cycle paths (but not car parking) the Green Swathe and the Quarry Pond (both as defined in the Deed of Conditions) (all insofar as not adopted for maintenance by the Local Authority), boundary fences, structural landscaping tree belts and other landscaped areas but excluding any part of the Park which (i) has been disposed or leased to any individual Proprietor or otherwise dedicated exclusively with or to individual Proprietors or groups of Proprietors and/or (ii) comprises a Developable Area.

2.2 In connection with the furtherance of any of the foregoing objects to perform its powers and functions for the benefit of the Proprietors and persons using and/or working in the Park in accordance with the principles and standards of good estate management.

2.3 In connection with the furtherance of any of the above objects but not otherwise the Company shall have the following powers:-

2.3.1 To receive subscriptions, contributions and gifts and to solicit, invite, receive, allocate and administer and to take such steps as may from time to time be deemed necessary for the purposes of procuring the provisions of funds (including grants) for all or any of the objects of the Company and in particular, without prejudice to the foregoing generality, to require and receive funds from the Proprietors or other sources (whether public or private and subject to the terms and conditions referable to the provision of such funds from such other sources) for all or any of the objects of the Company as may seem necessary and otherwise to charge, collect and recover from the Proprietors all costs and expenses incurred by the Company pursuant to all or any of the objects of the Company.



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2.3.2 To purchase, take on lease or in exchange, hire, borrow or otherwise acquire property of any kind whatsoever and any rights or privileges necessary for the furtherance of the objects of the Company and to construct, maintain, alter and demolish any buildings or erections required for the work of the Company.

2.3.3 To sell, let, let on hire, mortgage, lend, dispose of or turn account all or any of the property or assets of the Company for such consideration as may be thought fit.

2.3.4 To invest and deal with the monies of the Company not immediately required for its purposes in or upon such investments, securities or property as may be thought fit, subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law.

2.3.5 To mortgage, lease and accept surrenders of leases of and manage all property (including leaseholds) of the Company and generally to manage, invest and expend all monies of or belonging to the Company.

2.3.6 To borrow or raise money for the objects of the Company on such terms and on such security as may be thought fit and in particular, without prejudice to the foregoing generality, by way of mortgage, charge, debenture or otherwise of all or any part of the property and assets of the Company.

2.3.7 To draw, make, accept, endorse, execute and issue promissory notes, bills of exchange and other transferable or negotiable instruments.

2.3.8 To appoint and employ officers and other persons, firms or companies on such terms, at such remuneration and upon such conditions as may from time to time be determined.

2.3.9 To enter into any deeds, agreements or arrangements with the Proprietors or any of them and to enter into covenants with, or give undertakings to, the Proprietors or any of them in relation to the Park and to enforce any covenants given to the Company by any parties (including the Proprietors) for the benefit of the Proprietors or any of them.

2.3.10 To pay all rates, taxes, charges, debts, impositions and other outgoings and other obligations whatsoever in respect of the



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property or assets of the Company.

2.3.11 To effect and keep any insurance against any risk, loss or liability whatsoever to which the Company may be or might become in any way subject.

2.3.12 To purchase and maintain insurance for, or for the benefit of, any persons who are or were at any time members of the Council of Management of the Company (such term having the same meaning as in the Articles), officers, employees or agents of the Company, or of any subsidiary undertaking of the Company, or who are or were at any time trustees of any pension fund in which any employees of the Company or of any such subsidiary undertaking are interested, including (without prejudice to the foregoing generality) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported executions and/or discharge of their duties and/or the exercise or purported exercise of their powers and/or otherwise in relation to their duties, powers or offices in relation to the Company or any such subsidiary undertaking or pension fund and to such extent as may be permitted by law or otherwise to indemnify or to exempt any such person against or from any such liability; for the purposes of this sub-clause (12) "subsidiary undertaking" shall have the same meaning as in s.258 of the Companies Act 1985.

2.3.13 To subscribe money for purposes in any way connected with all or any of the objects of the Company or calculated to further such objects.

2.3.14 To pay the expenses of and necessary for the formation and incorporated of the Company.

2.3.15 To enforce any deed or deeds of conditions in force in respect of the Park from time to time.

2.3.16 To do all or any of the things hereinbefore authorised as principals, agents, trustees or otherwise and either alone or in conjunction or association with any other organisations, institutions, societies or bodies.

2.3.17 To all such other things as are incidental or conducive to the attainment of the above objects.

3. Income





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3.1 The income and property of the Company, however derived, shall be applied solely towards the promotion of its objects as set forth in this Memorandum of Association and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to the members of the Company and no member of its Council of Management shall be appointed to any office of the Company paid by salary or fees or receive any remuneration or other benefit in money or money's worth from the Company. Provided that nothing herein shall prevent any payment in good faith by the Company:-

3.1.1 of reasonable and proper remuneration to any member, officer or servant of the Company (not being a member of its Council of Management) for any services rendered to the Company;

3.1.2 of interest on money lent by any member of the Company or of its Council of Management at a rate per annum equal to the base rate prescribed for the time being by The Royal Bank of Scotland plc;

3.1.3 of reasonable and proper rent for premises let by any member of the Company or of its Council of Management;

3.1.4 to any member of its Council of Management for out-of-pocket expenses wholly and exclusively incurred in connection with the business of the Company.

## 4. The Members

4.1 The liability of the members is limited.

4.2 Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the Company contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding such percentage of [£15,000] as is represented by his Relevant Percentage (such term having the same meaning herein as in the Articles) applicable to such member.

4.3 We, the subscribers to this Memorandum of Association, wish to be formed into a company pursuant to this Memorandum.



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[Name and Addresses of Subscribers]

THE COMPANIES ACTS 1985 & 1989 COMPANY LIMITED BY GUARANTEE AND NOT  
HAVE A SHARE CAPITAL

ARTICLES OF ASSOCIATION

of

[PGL GRANTON (MANAGEMENT COMPANY) LIMITED]

1. Definitions and Interpretation

1.1 In these Articles the following words and phrases shall have the meanings given below, if not inconsistent with the subject or context:-

"the Act" - the Companies Act 1985 as amended by the Companies Act 1989 including any statutory modification or re-enactment thereof for the time being in force;

"these Articles" - these Articles of Association of the Company as from time to time altered by special resolution;

"the Park" - that area of ground at Marine Drive and South Shore Road, Granton, Edinburgh which area of ground comprises the subjects registered in the Land Register of Scotland under Title Numbers MID15716 and MID15713

"the Change of Control Date" - the day following the date on which 95% or more of the gross site area of the Park (excluding any Common Parts) is first owned (as heritable proprietor) by parties other than PGL;

"the Common Parts" - those parts of the Park which are designated as common parts in the Memorandum of Association of the Company from time to time;

"the Company" - [PGL Granton (Management Company) Limited];

"Council of Management" - the executive body for the time being of the Company comprising, subject as hereinafter provided, not more than [5] people at any one time, whose collective responsibility it is to ensure that the objects of the Company are implemented each of whom shall be deemed to be a director for the purposes of the



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Act;

"Management Criteria" - the management principles to be employed in relation to the pursuance by the Company of its objects as such principles are to be and are prepared from time to time by the Managing Agents in accordance with the best principles of good estate management and approved by the Council of Management;

"Managing Agents" - the managing agents, being a firm of chartered surveyors of United Kingdom standing or such other appropriate qualified organisation, appointed from time to time by the Company;

"the Office" - the Registered Office for the time being of the Company;

"PGL" - Port Greenwich Limited, incorporated under the Companies Acts with Registered Number 2392867 and having its Registered Office formerly at 130 Jermyn Street, London, and now at 1-3 Strand, London; Declaring however that in the event that Port Greenwich Limited disposes of its entire interest in the Park as existing at any time (excluding the Common Parts) "PGL" shall mean Port Greenwich Limited's successors as heritable proprietors of Port Greenwich Limited's entire interest in the Park as aforesaid;

"Proprietor" - in relation to any part of the Park (other than the Common Parts) the heritable proprietor thereof;

"Relevant Percentage" - in respect of each Proprietor the percentage calculated by reference to the formula:-

$$100 \times A/B$$

where "A" is the gross site area (in square metres) of the total ground comprised in such Proprietors' interest in the Part and "B" is the gross site area (in square metres) of the Park as a whole but excluding the Common Parts;

"the Secretary" - any person appointed to perform the duties of the Secretary of the Company, including a joint, assistant or deputy Secretary;

"the United Kingdom" - Great Britain and Northern Ireland.

1.2 In these Articles, unless the contrary intention appears:-



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1.2.1 the expression "in writing" shall be construed as including reference to printing, lithography, photography and other modes of representing or reproducing words in visible forms;

1.2.2 words importing the singular number only shall include the plural number and vice versa;

1.2.3 words importing one gender only shall include all other genders;

1.2.4 words importing persons shall include partnerships, companies and corporations; and

1.2.5 subject as aforesaid, any words or expressions defined in the Act shall, if not inconsistent with the subject or context, bear the same meaning in these Articles.

**2. Establishment**

2.1 The regulations contained in Table C in the Schedule to the Companies (Table A to F) Regulations 1985 shall not apply to the Company.

2.2 The Company is established for the objects expressed in the Memorandum of Association.

**3. Members**

3.1 With the exception of the subscribers to the Memorandum of Association, only persons who are Proprietors shall be members of the Company. The subscribers to the Memorandum of Association shall be the first members of the Company.

3.2 No person who is eligible to be a member of the Company shall be admitted to membership unless he shall have signed and delivered to the Company at the Office an application for membership in such form as the Council of Management may from time to time prescribe containing:-

3.2.1 an agreement by him to be bound by the provisions of the Memorandum of Association of the Company and these Articles;

3.2.2 an irrevocable undertaking to pay to the Company by way of subscription at such time or times as the Council of Management may from time to time determine the Relevant Percentage of such amount



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as the Council of Management on the recommendation of the Managing Agents may from time to time determine as reasonable and/or necessary to meet the expenditure of the Company in pursuing its objects and/or necessary to meet any shortfall (if any) between income (whether by way of subscriptions of members or otherwise) and expenditure, arising from time to time; and

3.2.3 such other particulars relevant to membership of the Company as the Council of Management may from time to time determine.

3.3 Upon receipt of any application for membership from a Proprietor the Secretary shall place the application for membership before the Council of Management at the next meeting thereof who shall approve the application and instruct the Secretary to enter the name of such person in the Register of Members of the Company kept in accordance with Section 352 of the Act.

3.4 A person shall cease forthwith to be a member of the Company in the following circumstances:-

3.4.1 if such person ceases to be a Proprietor and he has procured that the transferee(s) of his entire interest in the Park has applied for membership of the Company; or

3.4.2 if, being a corporation, it is wound up (other than for the purpose of any amalgamation or reconstruction approved by the Council of management), dissolved or a receiver, administrative receiver, administrator, liquidator or other similar officer is appointed over all or any part of its property and undertaking.

3.5 A member of the Company being a subscriber to the Memorandum of Association of the Company may resign from membership of the Company by giving written notice to that effect to the Secretary whereupon such member shall immediately cease to be a member and its/his/her name shall be removed from the Register of Members of the Company PROVIDED THAT at the time of giving such written notice there are at least two members of the Company who are Proprietors.

3.6 Membership of the Company shall not be transferable.

## 4. General Meetings

4.1 The Company shall hold a General Meeting in every calendar year as its Annual General Meeting at such time and place as may be determined by the Council of Management and shall specify the



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meeting as such in the notices calling it, provided that every Annual General Meeting except the first shall be held not more than fifteen months after the holding of the last immediately preceding Annual General Meeting, and that so long as the Company holds its first Annual General Meeting within eighteen months after its incorporation it need not hold one in the year of its incorporation or in the following year.

4.2 All General Meetings, other than Annual General Meetings, shall be called Extraordinary General Meetings.

4.3 The Council of Management may, whenever it thinks fit, convene an Extraordinary General Meeting, and Extraordinary General Meetings shall also be convened on such requisition or, in default, may be convened by such requisitionists as provided by Section 368 of the Act.

### 5. Notice of General Meetings

5.1 At least twenty-one days' notice in writing of every Annual General Meeting and of every meeting convened to pass a special resolution, and at least fourteen days' notice in writing of every other General Meeting (exclusive in every case both of the day on which it is served or deemed to be served and of the day for which it is given) specifying the place, the date and the hour of meeting and, in the case of special business in terms of Article 6.1, the general nature of that business shall be given in the manner hereinafter mentioned to such persons (including the auditors) as are under these Articles or under the Act entitled to receive such notices from the Company, but with the consent of all the members having the right to attend and vote thereat, or of such proportion of them as is prescribed by the Act in the case of meetings other than Annual General Meetings, a meeting may be convened by such notice as those members may think fit.

5.2 The accidental omission to give notice of a meeting to, or the non-receipt of such notice by, any person entitled to receive notice thereof shall not invalidate any resolution passed, or proceeding taken, at any meeting.

### 6. Proceedings at General Meetings

6.1 All business shall be deemed special that is transacted at an Extraordinary General Meeting and also that is transacted at an Annual General Meeting, with the exception of the consideration of



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the income and expenditure account and balance sheet, and the reports of the Council of Management and of the auditors, the elevation of members of the Council of Management and the appointment and fixing of the remuneration of the auditors.

6.2 No business shall be transacted at any General Meeting unless a quorum is present when the meeting proceeds to business and during the meeting itself. Subject to the provisions of Articles 6.3 and 6.22 there shall be a quorum at any meeting of the Company when the number of members present in person or by proxy or by a duly authorised representative is equal to or greater than one third of the multiple of three next above the number of members of the Company for the time being entitled to vote at any such meeting.

6.3 If within half an hour after the time appointed for the holding of a General Meeting a quorum is not present, the meeting, if convened on the requisition of members, shall be dissolved and in any other case the meeting shall stand adjourned to the same day in the next week, at the same time and place, or at such other place as the Council of Management may determine and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting the members present shall be a quorum.

6.4 The Chairman (if any) of the Council of Management, failing whom, the Vice-Chairman (if any) of the Council of Management, shall preside as chairman at every General Meeting, but if there be no such Chairman and no such Vice-Chairman or if at any General Meeting neither the Chairman nor the Vice-Chairman shall be present within fifteen minutes after the time appointed for holding the same, or the Chairman or Vice-Chairman shall be unwilling to preside, the members present shall choose some other member of the Council of Management or if no other member of the Council of Management be present, or if all the members of the Council of Management present decline to take the chair, they shall choose some member of the Company who shall be present to preside as chairman of the meeting. A Member of the Council of Management shall be entitled to attend and speak at any General Meeting notwithstanding that he is not a member of the Company.

6.5 The chairman of a meeting may, with the consent of any General Meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the General Meeting from time to time, and from place to place, but no business shall be transacted at any adjourned General Meeting other than business which might have



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properly been transacted at the General Meeting from which the adjournment took place. Whenever a meeting is adjourned for fourteen days or more, notice of the adjourned meeting shall be given in the same manner as of an original meeting. At least seven days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of business to be transacted. Save as aforesaid, the members shall not be entitled to any notice of adjournment or of the business to be transacted at an adjourned meeting.

6.6 At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is, before or upon the declaration of the result of the show of hands, demanded by the chairman of the meeting or by at least three members of the Company present in person or by proxy or by a duly authorised representative, or by a member or members present in person or by proxy or by a duly authorised representative and together representing in aggregate at least 15% by way of Relevant Percentage and unless a poll be so demanded a declaration by the chairman of the meeting that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority, and an entry to that effect in the minute book of the Company shall be conclusive evidence of the factor without proof of the number or proportion of the votes recorded in favour or against that resolution. The demand for a poll may, before the poll is taken, be withdrawn and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.

6.7 Subject to the provisions of Article 6.8, if a poll be demanded in manner aforesaid it shall be taken at such time and place, and in such manner, as the chairman of the meeting shall direct, and the result of the poll shall be declared at such time and place as the chairman of the meeting may direct and will be deemed to be the resolution of the meeting at which the poll was demanded.

6.8 No poll shall be demanded on the election of a chairman of a meeting or any question of adjournment.

6.9 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a second or casting vote.

6.10 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question





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on which a poll has been demanded.

6.11 Subject to and in accordance with the provisions of sections 381A, 381B and 381C of the Companies Act 1985, a resolution in writing consented to and signed by or on behalf of each member who would have been entitled to vote upon it, if it had been proposed at a general meeting at which he was present, (which consent and signature may be evidenced by letter, telex, cable, electronic mail, facsimile or otherwise as the Board may from time to time resolve to permit) shall be as effectual as if it had been passed at a general meeting duly convened and held.

6.12 Until the Change of Control Date, PGL as a member of the Company shall be entitled to two votes at any General Meeting and, subject to the provisions of Article 7.4 all other members shall have the right to receive notice of and to attend and speak at each General Meeting but shall not be entitled to vote thereat except in respect of the election of members of the Council of Management (other than PGL's Appointees) pursuant to Article 7.3 in which event the provisions of Article 6.13 shall apply as to voting.

6.13 Following the Change of Control Date on a show of hands each member of the Company who (being an individual) is present in person or (being a partnership or corporation (which may include PGL in the event of PGL being a Proprietor) is present by a duly authorised representative, shall have one vote and on a poll every member of the Company present in person or by proxy or by a duly authorised representative as aforesaid shall be entitled to cast such number of votes at a General Meeting as shall equal the number of that member's Relevant Percentage.

6.14 No member shall be entitled to vote at any General Meeting unless all monies then payable by it to the Company as required by the Council of Management have been paid.

6.15 Votes may be given on a poll either personally or by proxy or by a representative. Subject to the provisions of Article 6.14, on a show of hands a member (other than a member which is a partnership or a corporation) present only by proxy shall have no vote, but a proxy or representative for a partnership or a corporation may vote on a show of hands. Subject to the provisions of Article 6.22 a proxy must be a member of the Company.

6.16 The instrument appointing a proxy shall be in writing under the hand of the appointer or its attorney duly authorised in



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writing, or if such appointer is a corporation under the hand of some officer duly authorised in that behalf.

6.17 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified or office copy thereof shall be deposited at the Office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote or in the case of a poll not less than 24 hours before the time appointed for the taking of the poll or shall be delivered to the chairman of the meeting or the Secretary or any member of the Council of Management at the meeting at which the poll was demanded in the case of a poll not taken forthwith but taken not more than 24 hours after it was demanded, and in default the instrument of proxy shall not be treated as valid. No instrument appointing a proxy shall be valid after the expiration of 12 months from the date of its execution.

6.18 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity or other incapacity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of the death, insanity or other incapacity or revocation as aforesaid shall have been received at the Office before the commencement of the meeting or adjourned meeting at which the proxy is used.

6.19 Any instrument appointing a proxy shall be in the following form or as near thereto as circumstances will admit:-

[PGL GRANTON (MANAGEMENT COMPANY)] LIMITED

I, [ ] of [ ] being a member of the above-named Company, hereby appoint [ ] of

[ ] and failing him [ ] of [ ] to vote for me and on my behalf at the (Annual or Extraordinary, or Adjourned as the case may be) General Meeting of the Company to be held on the [ ] day of [ ] and at every adjournment thereof.



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Signed this [                      ] day of [                      ] 20 [                      ].

The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

6.20 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman of the meeting whose decision shall be final and conclusive.

6.21 Any partnership or corporation which is a member of the Company may by resolution of its partners or its directors or under the hand of one of its officers authorise such person as it thinks fit to act as its representative at any meeting of the Company and the person so authorised shall be entitled to exercise the same powers on behalf of the partnership or corporation which he represents or that partnership or corporation could exercise if it were an individual member of the Company and a vote given by an authorised representative shall be valid notwithstanding the previous determination of the authority of the person voting, provided that no intimation in writing of such determination shall have been received at the Office before the commencement of the meeting or adjourned meeting at which the vote is given.

6.22 Notwithstanding any of the provisions of Articles 6.15 to 6.21, whilst PGL is entitled to cast two votes at any General Meeting in accordance with the provisions of Article 6.12, it shall be entitled to be represented at any such meeting by a duly authorised representative and a proxy, or by two proxies, and such representative and proxy, or each of such proxies, shall each be entitled to cast one vote on behalf of PGL on a show of hands. Notwithstanding the provisions of Article 6.2 (but only until the Change of Control Date has occurred) there shall be a quorum at any General Meeting of the Company when PGL is represented at such meeting by a duly authorised representative and a proxy, or by two proxies, in accordance with the provisions of this Article. Notwithstanding the provisions of Article 6.15, a proxy appointed by PGL pursuant to the provisions of this Article 6.22 is not required to be a member of the Company.

## 7. Council of Management



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7.1 Unless and until otherwise determined by ordinary resolution of the Company, there shall be not less than 2 and not more than 5 members of the Council of Management.

7.2 No Member of the Council of Management shall vacate his office or be ineligible for re-appointment as a Member of the Council of Management nor shall any person be ineligible for appointment as a Member of the Council of Management by reason only his attained any particular age.

7.3 Until the Change of Control Date has occurred, PGL shall at any time be entitled by notice in writing delivered to the Company to appoint three persons as members of the Council of Management (referred to in these Articles as "PGL Appointees" and "PGL Appointee" shall be construed accordingly) (such appointments to be made either collectively or individually) and at any time by notice to remove from office any such PGL Appointee and to appoint another person as a PGL Appointee in place of any such PGL Appointee who may be removed from office or who may die, resign or otherwise vacate office. Every appointment or removal of a PGL Appointee made pursuant to this Article shall be effected by notice in writing either (i) lodged at the Office or (ii) delivered to a duly constituted meeting of the Council of Management (whether at the beginning or at any time during such meeting) and signed by an authorised signatory of PGL and shall take immediate effect as at the time of such lodgement or delivery. PGL Appointees may only be appointed pursuant to the provisions of this Article.

7.4 Until the Change of Control Date has occurred the members of the Company other than PGL shall be entitled to propose for election, and vote on the elevation of up to two persons as members of the Council of Management in accordance with the provisions of these Articles.

7.5 Following the Change of Control Date the rights of PGL under Article 7.3 hereof to appoint PGL Appointees shall cease automatically and its members of the Council shall vacate office at the Annual General Meeting of the Company first occurring thereafter and thereafter the members of the Council of Management shall be elected in accordance with the remaining provisions of these Articles.

7.6 Save for PGL Appointees, no person shall be appointed or be re-appointed a member of the Council of Management by the Company by



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ordinary resolution at any Annual General Meeting unless:-

7.6.1 he is a retiring member of the Council of Management; or

7.6.2 he is recommended by the Council of Management; or

7.6.3 not less than 7 nor more than 21 days before the date appointed for the Annual General Meeting there shall be left at the Office a notice in writing signed by a member of the Company of the written intention to propose such person for appointment or re-appointment and also notice in writing signed by that person of his willingness to be appointed or re-appointed.

7.7 Not less than 5 days before the date appointed for the Annual General Meeting, the Council of Management shall send a list of the names of the persons who will be proposed for appointment or re-appointment as members of the Council of Management at such Annual General Meeting to each member of the Company. Other than the PGL Appointees any person appointed or re-appointed as a member of the Council of Management at any Annual General Meeting of the Company shall retain his office only until the next Annual General Meeting of the Company.

7.8 Subject to the provisions of Articles 7.3 and 7.4 but notwithstanding any other provision of these Articles, the members of the Council of Management shall have power at any time to appoint any person to be a member of the Council of Management either to fill a casual vacancy or as an additional member of the Council of Management but so that the total number of members of the Council of Management shall not at any time exceed the maximum number (if any) fixed by or in accordance with these Articles. Any person so appointed by the members of the Council of Management shall hold office only until the next Annual General Meeting but shall then be eligible for re-appointment.

7.9 The members of the Council of Management shall act without remuneration, except that they may be paid all out-of-pocket expenses incurred by them in connection with the business of the Company.

## 8. Retirement and removal of Members of the Council of Management

8.1 At each Annual General Meeting every member of the Council of Management, other than the PGL Appointees, shall retire from office. A retiring member of the Council of Management shall be



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automatically eligible for re-election.

8.2 The Company may by way of ordinary resolution, of which special notice has been given in accordance with Section 379 of the Act, remove any member of the Council of Management before the expiration of his period of office notwithstanding anything in these Articles or in any agreement between the Company and the member of the Council of Management.

8.3 The Company may by ordinary resolution appoint another appointee in place of a member of the Council of Management (other than a PGL Appointee) removed from office under Article 8.2 or disqualified from office under Article 9.1

### 9. Disqualification of Members of the Council of Management

9.1 A person shall be disqualified from being a member of the Council of Management:-

9.1.1 if he becomes of unsound mind and the Council of Management resolves that he be removed from office;

9.1.2 if by notice in writing to the Company he resigns his office;

9.1.3 if he becomes by law prohibited from being a Director of a company;

9.1.4 if he becomes bankrupt or apparently insolvent or makes any arrangement or composition with his creditors generally;

9.1.5 if he accepts remuneration in contravention of Clause 3 of the Memorandum of Association of the Company; or

9.1.6 if he shall be removed pursuant to the power of removal contained in Article 8.2 hereof.

### 10. Powers of Members of the Council of Management

10.1 The business of the Company shall be managed by the Council of Management who may pay all such expenses of, and preliminary to, the promotion, formation, establishment and registration of the Company as they think fit, and may exercise all such powers of the Company, and do on behalf of the Company all such acts as may be exercised and done by the Company and as are not by the Act or by these Articles required to be exercised or done by the Company in



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General Meeting and subject to such regulations, being not inconsistent with the aforesaid provisions, as may be prescribed by the Company in General Meeting but no regulation made by the Company in General Meeting shall invalidate any prior act of the Council of Management which would have been valid if that resolution had not been passed.

10.2 The continuing members of the Council of Management may act notwithstanding any vacancy in their body, provided always that in the case where their number shall at any time be, or be reduced to less than two, it shall be lawful for them or for the remaining member to act as the Council of Management for the purpose of filling up vacancies in its body, or of summoning a General Meeting, but not for any purpose.

10.3 A member of the Council of Management who is in any way directly or indirectly financially interested in any contract or proposed contract with or any matter concerning the Company shall declare the nature of his interest at a meeting of the Council of Management in accordance with section 317 of the Act and shall be entitled to vote in respect of any contract, arrangement or matter in which he is financially interested directly or indirectly, subject to compliance with section 317 as aforesaid.

10.4 Without prejudice to the provisions of Article 14, the Council of Management shall have power to purchase and maintain insurance for, or for the benefit of, any persons who are or were at any time members of the Council of Management, officers, employees or auditors of the Company, or any subsidiary undertaking of the Company, or who are or were at any time trustees of any pension fund in which employees of the Company or of any such subsidiary undertaking are interested, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported exercise of their powers and/or otherwise in relation to their duties, powers or offices in relation to the Company or any such subsidiary undertaking or pension fund; for the purposes of this Article "subsidiary undertaking" shall have the same meaning as in the Companies Act 1989.

## 11. Borrowing Powers

11.1 Without prejudice to their general powers the Council of Management may exercise all the powers of the Company to borrow money and to mortgage and charge it undertaking and property or any



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part thereof and to issue debentures and other securities whether outright or as security for any debt liability or other obligation of the Company or of any third party.

### 12. Proceedings of the Council of Management

12.1 The Council of Management may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit, and determine the quorum necessary for the transaction of business. Unless otherwise determined, there shall be a quorum at any meeting of the Council of Management when the number of members of the Council of Management or one-third of the multiple of three next above the number of members of the Council of Management for the time being and so long as PGL Appointees are in office pursuant to Article 7.3 hereof shall include at least one PGL Appointee. Subject as herein provided questions arising at any meeting shall be decided by a majority of votes. Subject to the provisions of Article 12.3, each member of the Council of Management shall have one vote on any question. In case of an equality of votes the Chairman shall have a second or casting vote.

12.2 Subject to the provisions of these Articles a Member of the Council of Management may participate in a meeting of the Council of Management or a committee of the Council of Management by means of a conference telephone or similar communications equipment whereby all the Members of the Council of Management participating in the meeting can hear each other and the Members of the Council of Management participating in a meeting in this manner shall be deemed to be present in person at such meeting.

12.3 Notwithstanding the provisions of Article 12.1 and subject as hereinafter provided, the PGL Appointees shall have an aggregate of three votes on any question such three votes to be allocated in such proportions to the PGL Appointees as PGL shall, in its sole discretion, determine from time to time and such allocation from time to time shall be intimated by notice delivered by a PGL Appointee on behalf of PGL to a duly constituted meeting of the Council of Management and shall take immediate effect as at the actual time of delivery. In the event of any PGL Appointee not being present at any meeting, the PGL Appointees present shall be entitled to exercise the vote or votes of the absent PGL Appointees in addition to their own votes and shall exercise such votes in accordance with the majority of votes of the PGL Appointees present.





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12.4 Two members of the Council of Management may, and on the request of two members of the Council of Management the Secretary shall, at any time summon a meeting of the Council of Management by at least seven days' notice in writing served upon the members of the Council of Management. A member of the Council of Management who is absent from the United Kingdom shall only be entitled to notice of a meeting at his address in the United Kingdom.

12.5 The Council of Management shall from time to time from among their number elect a Chairman and a Vice-Chairman to hold office in each case for a period expiring at the close of the next Annual General Meeting and the Chairman shall be entitled to preside at all meetings of the Council of Management at which he shall be present unless he is unwilling to do so, but if at any meeting the Chairman is not present within five minutes after the time appointed for holding the meeting and willing to preside, the Vice-Chairman (if any) shall automatically preside at the Meeting but if neither is present or willing to preside, or if no such Chairman and Vice-Chairman be elected, the members of the Council of Management present shall choose one of their number to be chairman of the meeting.

12.6 A properly convened meeting of the Council of Management at which a quorum is present shall be competent to exercise all the authorities, powers and discretions by or under the regulations of the Company for the time being vested in the Council of Management generally.

12.7 The Council of Management may delegate any of their powers to committees or groups consisting of such member or members of the Council of Management as they think fit, and any such committee or group shall, in the exercise of the powers so delegated, conform to any regulations imposed on it being the Council of Management. The meetings and proceedings of any such committee or group shall be governed by the provisions of these Articles for regulating the meetings and proceedings of the Council of Management so far as applicable and so far as the same shall from time to time not be superseded by any regulations made by the Council of Management. The Chairman (if any) of the Council of Management shall be an ex-officio member of all such committees and groups.

12.8 All acts bona fide done by any meeting of the Council of Management or of any committee of the Council of Management, or by any person acting as a member of the Council of Management or any committee, shall, notwithstanding it be afterwards discovered that



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there was some defect in the appointment or continuance in office of any such member of the Council of management or such committee or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a member of the Council of Management or any such committee.

12.9 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Council of Management shall from time to time by resolution determine.

12.10 The Council of Management shall cause proper Minutes to be made of all appointments of officers made by the Council of Management and of the proceedings of all meetings of the Company and of the Council of Management and of committees of the Council of Management, and all business transacted at any such meetings, and any such Minutes of any such meetings, if purporting to be signed by the chairman of any such meeting, or by the chairman of the next succeeding meeting, shall except in the case of manifest or clerical error be sufficient evidence without further proof of the facts therein stated.

12.11 A resolution in writing signed by all the members of the Council of Management for the time being or of any committee of the Council of Management who are entitled to receive notice of a meeting of the Council of Management or of such committee shall be as valid and effectual as if it had been passed at a meeting of the Council of Management or of such committee duly convened and constituted and may consist of several documents in like form each signed by one or more of the members of the Council of Management.

12.12 Any Member of the Council of Management (other than an alternate) may appoint any other Member of the Council of Management or any other person approved by resolution of the Council of Management and willing to act, to be an alternate and may remove from office such alternate Council of Management appointed by him.

12.13 An alternate shall be entitled to receive notice of all meetings of the Council of Management and of all meetings of committees of the Council of Management of which his appointer is a member, to attend and vote at any such meeting at which the Member



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of the Council of Management appointing him is not personally present, and generally to perform all the functions of his appointer as a Member of the Council of Management in his absence but save with the consent of a majority of the Council of Management shall not be entitled to receive any remuneration from the Company for his services as an alternate. It shall not be necessary to give notice at any meeting of the Council of Management to any alternate who is absent from the United Kingdom. An alternate shall cease to be an alternate if his appointer ceases to be a Member of the Council of Management. Any appointment or removal of an alternate shall be by notice to the Company signed by the Member of the Council of Management making or revoking the appointment or in any other manner approved by the Council of Management. Save as otherwise provided in these Articles an alternate shall be deemed for all purposes to be a Member of the Council of Management and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Member of the Council of Management appointing him.

### 13. Secretary

13.1 Subject to the provisions of the Act the Secretary shall be appointed by the Council of Management at such remuneration and upon such conditions as it may think fit and any Secretary so appointed may be removed by it.

### 14. Indemnity

14.1 Subject to the provisions of the Act, every member of the Council of Management, Secretary, Accountant, Trustee, Solicitor, other officer or servant of the Company shall be indemnified by the Company against, and it shall be the duty of the Company out of the funds of the Company to pay all costs, loss and expenses which any such officer or servant may incur or become liable to by reason of any contract entered into or act or thing done by him or proceedings (whether criminal or civil) defended by such officer or servant in which judgement is given in his favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company, or in any way in the discharge of his duties, including travelling expenses, unless the same shall happen through his own wilful act or default.



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### 15. Accounts

15.1 The Council of Management shall cause accounting records to be kept in accordance with Section 221 of the Act.

15.2 The Council of Management shall ensure that all minute books and income and expenditure accounts and records of the Company shall be open to the inspection of members not being members of the Council of Management at all times during normal office hours on weekdays (weekends and public holidays excepted) at the Office of the Company.

15.3 The Council of Management shall from time to time in accordance with sections 241 and 244 of the Act cause to be prepared and to be laid before the Company in General Meeting such income and expenditure accounts, balance sheets, group accounts (if any) and reports as are referred to in those sections. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the Company in General Meeting together with a copy of the auditors' report and the report of the Council of Management shall not less than 21 days before the date of the General Meeting be sent to every member of the Company. Provided that this Article shall not require a copy of those documents to be sent to any person of whose address the Company is not aware.

### 16. Audit

16.1 Once at least in every calendar year accounts of the Company shall be examined and the correctness of the Income and Expenditure Account and Balance Sheet ascertained by an independent qualified auditor or auditors.

16.2 Auditors shall be appointed and their duties regulated in accordance with section 385 of the Act and section 237 of the Act the members of the Council of Management being treated as the Directors mentioned in those sections.

### 17. Notices

17.1 A notice may be served by the Company upon any member, either personally or by sending it through the post in a prepaid letter, addressed to such member at his registered address as appearing in the register of members. A notice may be served by any member upon the Company either by leaving it at the Office or by sending it



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through the post in a prepaid letter addressed to the Company at the Office.

17.2 Any member described in the register of members by an address not within the United Kingdom, who shall from time to time give the Company an address within the United Kingdom at which notices may be served upon him shall be entitled to have notices served upon him at such address, but, save as aforesaid and as provided by the Act, only those members who are described in the register of members by an address within the United Kingdom shall be entitled to receive notices from the Company.

17.3 Any notice, if served by post, shall be deemed to have been served on the second day following that on which the letter containing the same is put into the post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post as a prepaid letter.

### 18. Dissolution

18.1 Clause 4.2 of the Memorandum of Association relating to the winding up and dissolution of the Company shall have effect as if the provisions thereof were repeated in these Articles.

## PART 4 - VISUAL CORRIDOR REGULATIONS

(1) Visual Corridors ensure an 8 metre space between the Properties or building developments within Properties for sightlines and pathways. They also provide access for fire fighting equipment and provide passive security.

(2) These zones fall within the management and maintenance responsibility of the individual Proprietors.

(3) No buildings or other structures, save as provided in this Part 4 of the Schedule are permitted to be erected on the Visual Corridors.

(4) Visual Corridor treatments and uses:-

(i) The can be laid to lawn.

(ii) They can accommodate footpaths, which would be surfaced in bound gravel matching the finish in the park landscape and would be



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3 metres wide, with the remaining 2 or 5 metre strip (depending on whether an 8 metre zone contained one or two paths) used as part of a parking area, planted with shrubs or laid to lawn.

(iii) Where buildings do not meet the edge of a Visual Corridor, trees are to be planted along the edge of the Visual Corridor at 10 metre intervals, so that the tree lines give definition to the space and connect to the treatment of the other access routes in the Park.

(iv) Within the Visual Corridor, shrub planting used to screen parking should not exceed 2 metres in height.

(v) Planting within the Visual Corridor should not exceed 1 metre in height.

(vi) Where possible Facades of buildings overlooking Visual Corridors should be fenestrated.

(vii) Fencing along the edges of, or within, Visual Corridors is likely to be prohibited, but where it is permitted it will be of a maximum 1.5 metres high and of wire construction.

(viii) Where a Visual Corridor is contained partly within one Property and partly within another Property it can be used for all or part of an access roadway serving one or both of those Properties.

(ix) it can be used as for all or part of an access roadway into that Property where a Visual Corridor is contained wholly within one Property.

(x) it can be used as all or part of a square either (a) serving an individual Property or (b) where a Visual Corridor is contained partly within one Property and partly within another Property serving both of the Properties in which part of the Visual Corridor is contained.

PART 5 - PLAN [showing the land edged red on the Supplementary Plan 2 to the Title Plan for Title Number MID15716]

PART 6 - DEVELOPMENT PLAN [Reproduced as Supplementary Plan 5 to the Title Plan for Title Number MID15716]

PART 7 - TELFORD COLLEGE PLAN [the area delineated in red on the



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Telford College Plan has been edged and numbered 3 in green on the Title Plan for Title Number MID15716]

### PART 8 - GOOD PRACTICE GUIDELINES

#### Construction:

In carry out any development the relevant Proprietor will ensure that such development is carried out with a minimum of inconvenience to neighbouring or adjacent proprietors, and that no mud be allowed to remain on the metalled roadways within the Park, and that in all respects the provisions of the Local Planning Authority and Building Control, and all relevant Local Authority and other statutory requirements, regulations, licenses, consents, approvals and others are conformed with.

#### Dust:

The relevant Proprietor shall take appropriate measures to ensure that the minimum of environmental pollution caused by dust due to construction techniques or dry weather is caused.

#### Noise:

The relevant Proprietor will consider current occupiers when evaluating alternative construction techniques and where possible, "quiet" construction measures will be used.

The relevant Proprietor shall take appropriate measures to control the behaviour of site operatives while working in the proximity of occupied buildings.

#### Signage:

All signs, notice boards and other forms of exterior signage shall be in accordance with provisions to be set out by the Management Company.

#### Common Areas:

The Management Company will have the power to manage, maintain and improve the Common Parts in accordance with the principles of good estate management and in the interests of the Generality of the occupiers in the Park as a whole.



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PART 9 - RETAIL SITE PLAN [being the area tinted pink on said Supplementary Plan 2]

Note: The foregoing Deed of Conditions contains a declaration that Section 17 of the Land Registration (Scotland) Act 1979 is not to apply. The conditions contained in the said Deed of conditions have been made real by being imported by reference in a conveyance of the subjects in this Title.

- 5 Disposition by Port Greenwich Limited ("the "Seller") to West Granton Housing Co-operative Limited and its successors and assignees (the "Purchaser"), registered 18 May 2006, of the subjects outlined red and partly cross-hatched green and partly cross-hatched blue and shaded green on the Supplementary Plan No.2 to the Title Plan (the "Subjects"), contains inter alia the following real burdens and servitudes:

Part 1: Interpretation

In this Schedule;-

"Common Parts" has the meaning given to it in the Deed of Conditions

"Retained Property" means the subjects registered under Title Number MID15716 and each and every part thereof under exception of the Subjects;

"Deed of Conditions" means the Deed of Conditions in Entry 4.

"Good Practice Guidelines" has the meaning given to it in the Deed of Conditions;

"Internal Roads" means the carriageway of the roads shown cross-hatched on Plan 1;

"Permitted Use" means the development on the Subjects of 90 housing units with parking and ancillary matters in terms of planning consent by the City of Edinburgh Council and having reference 05/01971/REM and subsequent use thereof for Affordable Tenure housing (as such term is defined in the Deed of Conditions);

"Plan 1" means Supplementary Plan No.2 to the Title Plan.





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"Plan 2" means Supplementary Plan No.3 to the Title Plan.

"Plot 20B" means the subjects in this Title.

Part 2: Real Burdens affecting the Retained Property and Plot 20B

The following real burdens are imposed on the Retained Property in favour of the Subjects:-

1 Oversailing rights over any property adjoining the Subjects (so far as the Seller is able to grant the same) to the extent required to carry out the development of the Subjects in terms of the Permitted Use;

2 All rights pertaining to the Subjects by virtue of the Deed of Conditions;

The following real burdens are imposed on Plot 20B in favour of the Subjects:-

3. On completion of the parking spaces and cycle storage to be constructed on Plot 20B, and all access/egress ramps, roads and ways serving the same, including, without prejudice to the foregoing generality, the said ramp to be constructed on the Subjects, the proprietor of the Subjects shall grant a heritable and irredeemable right to use the said access/egress ramp in favour of the proprietor of Plot 20B and the proprietor of Plot 20B shall grant to the proprietor of the Subjects for no consideration title to the said parking spaces and cycle storage and any stairs, ways or spaces exclusively serving the same to be constructed on Plot 20B.

4 Either in the said deed or deeds giving effect to the matters referred to above or in a Deed of Constitutive Real Burdens, the proprietors of Plot 20B and the Subjects shall register against their respective titles real burdens governing the use and maintenance of the said ramps, roads, ways and spaces and that on a fair and equitable basis.

Part 3

The following servitudes are imposed on (1) that part of the Retained Property marked as "Plot 17" on Plan 1 and (2) the adjoining land registered under Title Number MID81620 in favour of



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the Subjects:-

3 Heritable and irredeemable servitude rights of pedestrian and vehicular access over the carriageway and pavements shown cross-hatched red on Plan 1 and to be formed by such adjoining proprietor

Part 5

Servitudes affecting the Subjects

The following servitudes are imposed on the Subjects for the benefit of the Retained Property.

1 Heritable and irredeemable servitude rights of pedestrian and vehicular access to and egress from the Retained Property over the Internal Roads and pavements shown cross hatched in blue on Plan 1.

The following servitudes are imposed on the Subjects for the benefit of Plot 20B:-

2 Heritable and irredeemable servitude rights of access to construct on that part of the Subjects coloured pink on Plan 2 (together with such other reasonable parts of the Subjects as may be necessary for such construction) an access/egress ramp and all supporting infrastructure necessary to serve the same and the development of housing on Plot 20B;

3 Heritable and irredeemable servitude rights of pedestrian and vehicular access and egress over the Subjects as are necessary for the construction of the 24 car parking spaces and cycle storage at basement floor level shown hatched green and hatched blue respectively on Plan 2;

4 Subject to Conditions 8 and 9 of Part 4 of this Schedule, heritable and irredeemable servitude rights of pedestrian and vehicular access and egress over the said access/egress ramp in all time coming;

The following servitudes are imposed on the Subjects for the benefit of (1) that part of the Retained Property marked "Plot 17" on Plan 1 and (2) the adjoining land registered under Title Number MID81620:-

5 Heritable and irredeemable servitude rights of pedestrian and vehicular access and egress over that part of the Subjects shown



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cross-hatched blue and shaded green on Plan 1.

Part 6

Restriction on application to the Lands Tribunal

No application may be made to the Lands Tribunal for Scotland under Section 90(1)(a)(i) and Section 91(1) of the Title Conditions (Scotland) Act 2003 in respect of the real burdens set out in Pa 4 of this Schedule and the servitudes set out in Part 5 of this Schedule for a period of five years after 18 May, 2006

- 6 Disposition by Port Greenwich Limited ("the "Seller") to Lothian Homes Limited and its successors and assignees (the "Purchaser"), registered 18 May 2006, of the subjects edged red on the Title Plan, of which the subjects in this Title form part (the "Subjects"), contains the following declaration and real burdens and servitudes:

The Purchaser shall indemnify and keep the Seller (and any successor in title to the liabilities of the Seller) indemnified in respect of all and any actions, judgements, penalties, damages, losses, costs, claims, expenses, liabilities and demands wholly or partly arising from or consequent upon the condition of the Subjects.

## SCHEDULE

Part 1: Interpretation

In this Schedule;-

"Common Parts" has the meaning given to it in the Deed of Conditions

"Retained Property" means the subjects registered under Title Number MID15716 and each and every part thereof under exception of the Subjects;

"Deed of Conditions" means the Deed of Conditions in Entry 4.

"Good Practice Guidelines" has the meaning given to it in the Deed



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of Conditions;

"Internal Roads" means the carriageway of the roads cross-hatched on Plan 1;

"Permitted Use" means the development on the Subjects of 90 housing units with parking and ancillary matters in terms of planning consent by the City of Edinburgh Council and having reference 05/01971/REM

"Plan 1" means Supplementary Plan No.2 to the Title Plan.

"Plan 2" means Supplementary Plan No.3 to the Title Plan.

"Plot 20A" means the subjects outlined red and partly cross-hatched green and partly cross-hatched blue and shaded green on the Supplementary Plan No.2 to the Title Plan

Part 2: Real Burdens affecting the Retained Property and Plot 20A

The following real burdens are imposed on the Retained Property in favour of the Subjects:-

1 Oversailing rights over any property adjoining the Subjects (so far as the Seller is able to grant the same) to the extent required to carry out the development of the Subjects in terms of the Permitted Use;

2 All rights pertaining to the Subjects by virtue of the Deed of Conditions;

The following real burdens are imposed on Plot 20A in favour of the Subjects:-

3. Subject to Conditions 8 and 9 of Part 4 of this Schedule, the right to receive a valid marketable title to all necessary rights for the full enjoyment and use of the access ramp to be constructed on Plot 20A as aftermentioned and that from the proprietor of Plot 20A.

4 Either in the said deed or deeds giving effect to the matters referred to above or in a Deed of Constitutive Real Burdens, the proprietors of Plot 20A and the Subjects shall register against their respective titles real burdens governing the use and maintenance of the ramps, roads, ways and spaces referred to in



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Condition 8 of Part 4 of this Schedule and that on a fair and equitable basis.

### Part 3

Servitudes affecting the Retained Property and adjoining land

The following servitudes are imposed on the Retained Property in favour of the Subjects:-

1 Heritable and irredeemable servitude rights of pedestrian and vehicular access to and egress from the Subjects over that part of the Internal Roads shown cross hatched in red on Plan 1 so far as within the Retained Property.

The following servitudes are imposed on Plot 20A in favour of the Subjects:-

2 Heritable and irredeemable servitude rights of access to construct on that part of Plot 20A shown coloured pink on Plan 2 (together with such other reasonable parts of Plot 20A as may be necessary for such construction) an access/egress ramp and all supporting infrastructure necessary to serve the same and the development of housing on the Subjects;

3 Heritable and irredeemable servitude rights of pedestrian and vehicular access and egress over Plot 20A as are necessary for the construction of the 24 car parking spaces and cycle storage at basement level shown hatched green and hatched blue respectively on Plan 2;

4 Subject to conditions 3 and 4 of Part 2 of this Schedule, heritable and irredeemable servitude rights of pedestrian and vehicular access and egress over the said access/egress ramp in all time coming;

The following servitudes are imposed on the adjoining land registered under Title Number MID81620 in favour of the Subjects:-

5 Heritable and irredeemable servitude rights of pedestrian and vehicular access over the carriageway and pavements shown cross-hatched in red on plan 1 and to be formed by such adjoining proprietor.



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Part 4

Real Burdens affecting the Subjects

The following real burdens are imposed on the Subjects in favour of the Retained Property:-

1 There is reserved to the proprietor of the Retained Property oversailing rights over the Subjects to the extent required for the development of any adjoining property;

2 An obligation to comply with the obligations on the proprietor of the Subjects by virtue of the Deed of Conditions;

3 In carrying out the development of the Subjects, an obligation to comply with the Good Practice Guidelines;

4 The Purchaser shall indemnify and keep the Seller and its successors in title to the Retained Property indemnified in respect of all and any actions, judgments, penalties, damages, losses, costs, claims, expenses, liabilities and demands wholly or partly arising from or consequent upon the condition of the Subjects;

5 An obligation not to use the Subjects otherwise than for the Permitted Use.

6 An obligation to maintain all pavements, verges and parking areas within the Subjects in a good and substantial condition.

7 An obligation to maintain the Internal Roads, jointly with any adjoining proprietor having a right of ownership in such Internal Roads in a good and substantial condition.

The following real burdens are imposed on the Subjects in favour of Plot 20A:-

8 On completion of the parking spaces and cycle storage to be constructed on the Subjects, and all access/egress ramps, roads and ways serving the same, including, without prejudice to the foregoing generality, the said ramp to be constructed on Plot 20A, the proprietor of Plot 20A shall grant a heritable and irredeemable right to use the said access/egress ramp in favour of the proprietor of the Subjects and the proprietor of the Subjects shall grant to the proprietor of Plot 20A for no consideration title to the said parking spaces and cycle storage and any stairs, ways or



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spaces exclusively serving the same to be constructed on the Subjects.

9 Either in the said deed or deeds giving effect to the matters referred to at 8 above or in a Deed of Constitutive Real Burdens, the proprietors of Plot 20A and the Subjects shall register against their respective titles real burdens governing the use and maintenance of the said ramps, roads, ways and spaces and that on a fair and equitable basis.

### Part 5

#### Servitudes affecting the Subjects

The following servitudes are imposed on the Subjects for the benefit of the Retained Property.

1 Heritable and irredeemable servitude rights of pedestrian and vehicular access to and egress from the Retained Property over the Internal Roads and pavements shown cross hatched in blue on Plan 1.

The following servitudes are imposed on the Subjects for the benefit of Plot 20A:-

2 Heritable and irredeemable servitude rights in favour of the proprietor of Plot 20A to use the car parking spaces to be constructed on that part of the Subjects shown outlined in green on Plan 2 and cycle storage facilities shown outlined in blue on Plan 2 and heritable and irredeemable rights of pedestrian and vehicular access to and egress from the said parking spaces over the ramps, roads and ways shown coloured yellow on Plan 2;

The following servitudes are imposed on the Subjects for the benefit of the adjoining property registered under Title Number MID81620:-

3 Heritable and irredeemable servitude rights of pedestrian and vehicular access and egress over that part of the Subjects shown cross-hatched blue and shaded yellow on Plan 1.

### Part 6

#### Restriction on application to the Lands Tribunal

No application may be made to the Lands Tribunal for Scotland under



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Section 90 (1)(a)(i) and Section 91(1) of the Title Conditions (Scotland) Act 2003 in respect of the real burdens set out in Pa 4 of this Schedule and the servitudes set out in Part 5 of this Schedule for a period of five years after 18 May, 2006.

- 7 Deed of Conditions, registered 5 May 2009, by Lothian Homes Limited, Proprietors of Development A (as after defined) and West Granton Housing Co-operative Limited proprietors of Development B (as after defined), contains burdens &c., in the following terms, viz:

We Lothian Homes and West Granton Housing Co-operative Limited, WHEREAS the shared underground parking, access roads, ramps and walkways are all being constructed on Development A and Development B, it is therefore expedient to set forth and declare various reservation, real burdens, conditions, servitudes and others affecting and applying to Development A and Development B and the various parts thereof; THEREFORE we do hereby provide and declare as follows:

### PART 1: INTERPRETATION

#### 1. In this Deed:

'Car Park Common Parts' means;

(a) any entrance security system located within Development A and/or Development B;

(b) the common entrance, ramp, roadway, walkways, the decorative finish on all walls and ceilings enclosing Development A and Development B, the lighting for the common entrance roadway passages and parking spaces, all signage within Development A and/or Development B;

'Community Burden' has the meaning assigned to it in accordance with Section 25 of the 2003Act;

'Development A' means those subjects shown partly outlined in red and partly outlined in broken blue lines and partly cross hatched blue, hatched and coloured green and hatched red on the Supplementary Plan No.4 to the Title Plan, which subjects form part and portion of the subjects known as and forming Title No.





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'Development B' means those subjects shown partly hatched blue and partly cross hatched in red on said Supplementary Plan which subjects form part and portion of the West Granton's title registered in the Land Register with Title No. MID89833.

'Egress Benefitted Property' means the subjects registered in the Land Register under Title No. MID89834;

'Egress Burdened Property' means those stairs, stairwell, passages, corridors and doors all located within the area shown cross hatched in red on said Supplementary Plan.

'Lothian' means Lothian Homes Limited;

'Maintenance' includes repair, maintenance, replacement, restoration, renewal, cleaning and painting and the words 'maintain' and 'maintaining' shall be construed accordingly;

'Parking Space' means those parking bays shown outlined in black and hatched and coloured green or cross hatched blue on said Supplementary Plan;

'Parking Space Proprietor' means the owner of a Parking Space, whether or not that person has completed title. Where two or more persons own a Parking Space pro indiviso 'Parking Space Proprietor' means both of them and any obligations imposed on them shall then bind them jointly and severally;

'West Granton' means the said West Granton Housing Co-operative Limited;

'2003 Act' means the Title Conditions (Scotland) Act 2003.

1.1 Where an obligation is placed on a Parking Space Proprietor to do or refrain from doing something, the Parking Space Proprietor must also ensure that other occupiers of the parking space or tenants thereof or anyone else for whom the Parking Space Proprietor is legally responsible either do or refrain from doing that thing.

## 2. FURTHER INTERPRETATION



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2.2 In this Deed, unless the context otherwise requires:

2.1 Words importing the neuter gender shall include the masculine or feminine gender as the case may be and words importing the masculine gender only shall include the feminine gender and vice versa;

2.2 Words importing the singular number shall include the plural number and vice versa;

2.3 Words importing persons shall include firms, companies and corporations and vice versa;

2.4 Any reference to an Act of Parliament shall include any modification or re-enactment thereon for the time being in force and shall include all Instruments, Orders, Plans, Regulations, Permissions and Directions for the time being made or given thereunder or arriving validity therefrom;

2.5 The clause headings in this Deed are for reference only and shall not affect the construction thereof.

PART 2: COMMUNITY BURDENS

(A) LEGAL STATUS OF THE RULES

Rule 1- Status of the Rules and Date of Creation

1.1 The Rules set out in this Part are real burdens imposed on Development A and Development B as Community Burdens (in which the Community is Development A and Development B combined) and are enforceable by the owner for the time being of each Parking Space, including any Parking Space retained by Lothian or West Granton except that Rule 22 is a Manager Burden and created in favour of Lothian;

1.2 The Rules take effect on 5 May 2009.

Rule 2 - Variation and Discharge

2.1 This Rule provides for the variation or discharge of any Rule in this Part:

(a) in respect of Development A or Development B or any part thereof;



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(b) to the extent that the Rule is a Community Burden;

2.2 Rules 3, 4, 5, 6, 24 and 25 may be varied or discharged by a Deed of Variation of Discharge under Section 33 of the 2003 Act granted:

(a) by or on behalf of the owners of at least two thirds of the parking spaces in Development A; or

(b) by the Factor;

2.3 The Factor may grant a deed under Rule 2.2 only where authorised to do so under Rule 17.1(c);

2.4 No application may be made to the Lands Tribunal for Scotland under Section 90(1)(a)(i) and/or 91(1) of the 2003 Act in respect of the real burdens and servitudes contained herein for a period of five years after 5 May 2009.

## B. THE PARKING SPACES

Rule 3- Restrictions on building, alterations and sale of Parking Spaces

3.1 No building (whether permanent, temporary or portable can be erected on any Parking Space

3.2 No Parking Space can be enlarged, altered, re-constructed or rebuilt without Lothian and West Granton's consent.

## Rule 4 - Use Restrictions

4.1 Each Parking Space is to be used for the parking of a private car, or motorbike or light commercial van. No caravan, boat, marine craft, trailer, taxi, lorry, truck, caravanette or any other type of commercial vehicle may be parked on any Parking Space.

4.2 No rubbish bins or bags or other form of refuse receptacle or other articles of any nature which may cause a nuisance to the owners of the Parking Spaces or shall be permitted to be left or deposited on any Car Park Common Parts.

## Rule 5 - Maintenance of Parking Space

5.1 The Parking Space Proprietor must:



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(a) ensure that no damage occurs to the Parking Space which might affect any adjacent Parking Space or create a nuisance to any other Parking Space Proprietor;

(b) control vermin;

(c) immediately treat any spillage or damage to the Parking Space;

5.2 In the event of a Parking Space Proprietor failing to adhere to any Rule of maintenance or other works the same may be carried out by Lothian or the Factor with a right of reimbursement for all costs and expenses against the Parking Space Proprietor. Further, if damage is caused to another Parking Space or the Car Park Common Parts or any part of the larger building of which they form a part as a result of a Parking Space Proprietor failing to adhere to the terms hereof, the Parking Space Proprietor will be liable for the damage caused thereby;

### Rule 6 - Insurance

6.1 Each Parking Proprietor shall be bound to concur in keeping Development A and Development B constantly insured against loss by fire and other risks normally insured against under a common insurance policy (the said policy to cover all Parking Spaces, and, Car Park Common Parts) with an established insurance company for the full replacement value (increased by 15% to cover Architects' and Surveyors' fees) as assessed by Lothian in the first place and thereafter by a majority of the Parking Proprietors from time to time, which insurance shall be in name of the Factor and taken out and held by the Factor on behalf of the Parking Space Proprietors and the holders of bonds or other securities over same (if any) for their respective rights and interests. Each Parking Space Proprietor shall be liable for a share of the premium thereof in respect of each Parking Space Proprietor, each Parking Space Proprietor being liable for a one eighty fourth share thereof. In the event of Development A and Development B or any part thereof being destroyed or damaged by fire or other insured causes the whole sum received from the insurance company shall be expended on re-erecting, re-instating or repairing Development A and Development B or any part thereof damaged or destroyed and in paying the said Architects' and Surveyors' fees;

6.2 Any Parking Space which is destroyed or damaged must be rebuilt or repaired by the relevant Parking Space Proprietor within two



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years from the date of damage or destruction occurring;

6.3 For the purpose of 6.2 above:

6.3.1 The whole sums received from the insurers must be expended; and

6.3.2 Development A and Development B must be restored to their previous design and dimensions;

6.4 The Parking Space Proprietors through the Factors shall effect insurance by a common policy in name of the factor on behalf of the Parking Space Proprietors against property owners' liability arising from the ownership of the Car Park Common Parts, the indemnity for which shall be not less than TWO MILLION POUNDS (£2,000,000) in respect of any one accident. Each Parking Space Proprietor shall be liable for a one eighty fourth share of the premium thereof in respect of each Parking Space owned by him.

### Rule 7 Structural Walls and Support Columns

7.1 The structural walls and support columns are owned by Lothian and are excluded from the ambit of this Deed of Conditions.

### Rule 8 - Car Park Common Parts

8.1 The Car Park Common Parts shall be maintained by the Parking Space Proprietors in a clean and tidy condition to the satisfaction of Lothian and/or that of the Factor, the cost of maintenance thereof shall be borne by each paying a one eighty fourth share of the cost thereof for each Parking Space owned by them;

8.2 The said maintenance may be carried out on the instructions of Lothian or by the Factor, each with a right of re-imbusement against each Parking Space Proprietor;

8.3 Nothing may be done on the Car Park Common Parts which constitutes a nuisance or occasions disturbance to the Parking Space Proprietors

8.4 No bicycles, prams, scooters or other items may be stored or left on any of the Car Park Common Parts;

8.5 Where common lighting equipment or security equipment has been installed in the common passages, ramps, roadways, the Parking



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Space Proprietors will be responsible for payment of the maintenance and running costs thereof, each Parking Space Proprietor paying a one eighty fourth share in respect of each Parking Space owned by him.

### Rule 9 - Decisions at Meetings

9.1 The Parking. Space Proprietors may make decisions in respect of matters specified in Rule 12 at any meeting called in accordance with this Rule;

9.2 A meeting in relation to Development A and Development B may be called by

- (a) any fifty percent of Parking Space Proprietors; or
- (b) the Factor

and may be held at such reasonably convenient time and place (but excepting weekends and public holidays) as they or he may determine;

9.3 A meeting is called by sending to each Parking Space Proprietor not less than seven days before the date fixed for the meeting a notice stating:

- (a) the date and time fixed for the meeting and the place where it is to be held; and
- (b) the business to be transacted at the meeting;

9.4 Any inadvertent failure to comply with Rule 9.3 with respect to any Parking Space Proprietor does not affect the validity of the proceedings at a meeting;

9.5 A Parking Space Proprietor may appoint a mandatory to attend the meeting and vote on his behalf.

### Rule 10 - Conduct of a Meeting

10.1 A meeting is not to begin unless there is present or represented a quorum, that is to say at least fifty per cent of the Parking Space Proprietors entitled to attend;

10.2 If there is no quorum thirty minutes after the time fixed for



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the meeting then:

(a) the meeting will be postponed until such date (being not less than seven and not more than twenty eight days later) as may be specified by the factor (or if the Factor is not present by a majority of the Parking Space Proprietors represented); and

(b) the Factor (or any Parking Space Proprietor) is to send to each Parking Space Proprietor a notice stating the date and time fixed for the postponed meeting and the place where it is to be held;

10.3 A meeting may be postponed only once and if at a postponed meeting the provisions in Rule 10.1 as respects a quorum are not satisfied, then the Parking Space Proprietors who are present or represented are deemed to be a quorum;

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

10.5 The Parking Space Proprietors present or represented are to elect one of their number or the factor to be the Chair of the meeting;

10.6 The Chair is to arrange for a person to take Minutes of the meeting;

10.7 Any Parking Space Proprietor present or represented may nominate additional business to be transacted.

**Rule 11 - Voting**

11.1 One vote is allocated to each Parking Space and any right to vote is exercisable by the Parking Space Proprietor or his mandatory;

11.2 If a Parking Space is held by two or more persons, the vote allocated to that Parking Space may be exercised by either (or any) of them, but if these persons disagree as to how the vote should be cast, then no vote is to be counted for that Parking Space;

11.3 A decision is made by the majority vote of all the votes cast;

11.4 Where Lothian or West Granton is the proprietor of any Parking Space or any share of a Parking Space, no decision is made unless



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it is supported by the vote for that Parking Space;

11.5 A decision on any matter specified in Rule 12 is binding on all Parking Space Proprietors and their successors as Parking Space Proprietors.

Rule 12 - Matters on which Decisions may be made

12.1 At a meeting of the Parking Space Proprietors, they may decide:

(a) to appoint a person or firm or company as factor on such terms as they may specify;

(b) to confer on the Factor the right to exercise such of their powers as they may specify, including

(i) the power to make a binding decision on the matters mentioned below; and

(ii) the power to enforce any rule;

(c) to confer on the Factor the power to grant under Rule 2:

(i) a specific Deed of Variation or Discharge; or

(ii) Deeds of Variation or Discharge of a specific kind;

(d) to revoke or vary the right to exercise such of the powers conferred under paragraphs (b) and (c) above as they may specify;

(e) to dismiss the Factor;

(f) to order maintenance, repair, decoration, cleaning and other routine works in respect of the Car Park Common Parts;

(g) to employ such cleaners and other staff as may be required for the maintenance and preservation of the Car Park Common Parts;

(h) to fix the amount of the annual maintenance charge;

(i) to fix the amount of the initial deposit (if any);

(j) to nominate a person to collect on behalf of the Parking Space Proprietors the annual maintenance charge (or the initial deposit);





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- (k) to contract with the service, security and utility providers;
- (l) to fix the amount of insurance cover; and
- (m) to modify or revoke any previous decision;

12.2 The Factor shall be entitled to instruct and have executed such works considered necessary for the interim protection or safety of the Development A or Development B or any part thereof or any person, without a meeting having to be called.

### Rule 13 - Liability for Costs

13.1 Liability for costs, maintenance and other costs arising out of a binding decision on a matter specified in Rule 12 and the relative remuneration and costs incurred by the Factor shall be paid by the Parking Space Proprietors on the basis of a one eighty fourth share for each Parking Space owned by him;

13.2 All other costs shall be paid by the Parking Space Proprietors as specified in this Deed;

13.3 The Factor is entitled to collect from the Parking Space Proprietors at regular intervals their share of the costs and sums due in terms of this Deed;

13.4 The Factor can recover unpaid costs on behalf of the Parking Space Proprietors and may do so in his own name;

13.5 Where a cost cannot be recovered from a Parking Space Proprietor for some reason, such as that:

(a) the estate of that Parking Space Proprietor has been sequestered; or

(b) that Parking Space Proprietor cannot by reasonable enquiry be identified or found, then that share must be paid by the other Parking Space Proprietors as if it were a cost mentioned in Rule 13.1;

13.6 The Factor shall have the authority to require the Parking Space Proprietors concerned to make payment in advance of their respective shares of the cost of any major works.

### Rule 14 - Annual Maintenance Charge;



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14.1 Each Parking Space Proprietor must pay to the Factor (or a person nominated for that purpose) the maintenance charge fixed in accordance with Rule 12 hereof;

14.2 The maintenance charge is an advance payment in respect of a Parking Space Proprietor's liability for maintenance and other payments under this Deed;

14.3 Where, in any year, the annual maintenance charge exceeds the Parking Space Proprietor's liability under this Deed, the excess is to be retained as an advance payment for liability sustained in subsequent years;

14.4 The Factor shall, within three months after the end of each calendar year, if requested to do so by any Parking Space Proprietor in writing, make available:

(a) at a meeting of the Parking Space Proprietors; or

(b) if the Parking Space Proprietor so requests, at the Factor's place of business, a full and vouched statement of account for his intromissions in respect of the preceding calendar year;

14.5 All sums held by the factor in respect of Development A and Development B (whether by virtue of this or any other Rule) are held by him in trust for the Parking Space Proprietors.

**Rule 15 - Manager Burden**

15.1 The Development A and Development B is subject to the manager burden in Rule 15.2 which is hereby created in favour of Lothian;

15.2 Lothian or anyone appointed by Lothian for the purpose may:

(a) act as the Factor of the Development;

(b) appoint some other person to be such Factor;

(c) dismiss any person appointed by virtue of Condition 15.2(b)

for 5 years from 5 May 2009 or until Lothian no longer owns any Parking Space in the Development, whichever is the shorter period;

15.3 On the expiry of the manager burden created in Rule 15.2, the appointment of the Factor shall continue until terminated by the Parking Space Proprietors who may at a meeting convened under Rule



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10 re-appoint the nominated Factor or terminate their appointment, but termination is only valid if another Factor is appointed in their place. Declaring for the avoidance of doubt that there shall only be one Factor for the Development A and Development B at any one time;

15.4 The Factor shall be entitled from the commencement of his appointment to exercise the rights specified in Rule 12 and shall apportion the costs incurred thereby amongst the various Parking Space Proprietors in accordance with the provisions of these presents and shall have such additional or alternative powers and duties as may be conferred on the factor by Lothian (in relation to any period when the factor is appointed under Rule 15) or the Parking Space Proprietors (in relation to any subsequent period when the Factor is appointed by the Parking Space Proprietors under Rule 12).

### Rule 16 - Change of Owner of Occupier

16.1 In the event of a change of ownership of a Parking Space the proprietor thereof shall provide the Factor with at least four weeks' notice of the intended change by sending a notice by first class post to the Factor and such notice shall include details of the names of the incoming proprietor, the date of the proposed change and forwarding address for the outgoing proprietor;

16.2 In the event of a change of occupancy of a Parking Space the proprietor thereof shall provide the Factor with at least four weeks' notice of the proposed change by sending a notice by first class post to the Factor and such notice shall include details of the names of the incoming occupiers and a contact address for the existing proprietors.

16.3 All parties hereto acknowledge that West Granton and their successors, disponees and tenants will be given exclusive rights to utilise those spaces shown outlined and cross hatched blue on the Supplementary Plan No.4 to the Title Plan. West Granton reserve the right to allocate ownership and occupation of those said units hatched blue at their sole discretion, West Granton being under an obligation to notify the Factor of such changes of ownership and occupation.

## PART 3: SERVITUDES



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A. COMMUNITY SERVITUDES

Benefited and Burdened Properties

A.1 The rights in this clause A are imposed as servitudes on the Development A and Development B in favour of each Parking Space Proprietor;

Use of Roads

A.2 There is a right of access for pedestrian and vehicular traffic over all roads, ramps, walkways and lanes within the Development A and Development B; Declaring that there shall in the case of fire or other emergency, a right of emergency egress over the Egress Burdened Property.

Access for Repairs

A.3 For the purpose of inspecting, cleaning, repairing and renewing:

(a) any building, wall, fence or other structure erected on the Development A and/or Development B;

(b) the drains, sewers, electric cables, gas and water mains and other pipes, cables, wires, enclosed units and services serving Development A and/or Development B;

(c) the Car Park Common Parts;

(d) any Parking Space;

or for any other necessary and reasonable purpose there is a right of access over any other part of Development A and/or Development B;

A.4 But the rights in A.3 may be exercised only where:

(a) it is reasonably necessary for the purpose in question, and

(b) reasonable notice has been given (except in the case of emergency).

Service Media

A.5 There is a right to lead pipes, cables, wires or other enclosed



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units over or under Development A and/or Development B for sewage, electricity, gas, water and all other necessary services;

A.6 This includes a right:

(a) to install, construct and lay drains, sewers, electric cables, gas and water mains and other pipes, cables and enclosed units;

(b) to connect into such drains, sewers, electric cables, gas and water mains and other pipes, cables and enclosed units as already exist or are installed by virtue of paragraph (a); and

(c) to carry out all- necessary acts of-inspection, maintenance and renewal

### B: MANNER OF EXERCISE OF RIGHTS

B.1 In the exercise of the rights conferred by Part 3 of this Deed, disturbance and inconvenience must be kept to a minimum, and all damage must be made good at the expense of the party exercising the right.

### C: RIGHTS IN FAVOUR OF STATUTORY UNDERTAKERS

C.1 There are reserved in favour of Lothian, the Local or public Authorities, statutory undertakers and any other public utility or service provider all necessary rights of access for the installation, repair, maintenance, cleaning and renewal of all electric and telegraphic cables, water, gas, and drainage pipes, sewers, soil, waste and water supply pipes and all other cables, pipes and transmitters and other services serving the Parking Spaces in Development A and Development B in, through and under any part of Development A and Development B.

### D: MISCELLANEOUS

D.1 Lothian reserves the right to alter or modify in whole or in part the reservations, real burdens, conditions and others herein contained and in the event of us so doing no Parking Space Proprietor shall have the right or title to object thereto and shall have no claim in respect thereof. Further, Lothian and West Granton reserves the right to make whatever alterations or deviations as Lothian and West Granton consider proper upon any of the title deed plans to any part of the Development A and Development B for such a purpose as Lothian may think fit or to



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alter or modify in whole or in part the terms of this Deed and no Parking Space Proprietor shall have any right or title to object thereto and shall have no claim in respect thereof.

**E. EMERGENCY EGRESS**

E.1 There is reserved to the Proprietors of the Egress Benefitted Property and their successors in the case of fire or other emergency only, a right of emergency egress over the Egress Burdened Property.

- 8 Deed of Conditions, registered 8 Jul. 2009, by Lothian Homes Limited, Proprietors of the Development (as after defined), contains burdens &c., in the following terms, viz:

**PART 1: INTERPRETATION**

In this deed -

1.1 'Association' means Lothian Homes Limited;

'Association Consent' means the written consent of the Association but this is only to be obtained if the Association owns a Flat or a share of a Flat or any other property within the Development at the time that consent is required;

'Bin Store' means any of the buildings or part of the buildings or areas forming part of the Development which are designated by the Association as a bin store

'Block of Flats' means Blocks G, H, J and K

'Block G' means the block of FOURTEEN flatted dwellinghouses constructed or to be constructed within the Development on the area of ground shown outlined in red and coloured red on the Supplementary Plan No.5 to the Title Plan, comprising the flatted dwellinghouses forming and known as flats 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 at 8 Marine Drive and those ground floor flats known as and forming 6/2 and 10 Marine Drive, Edinburgh EH5 1FD together with the patio ground pertaining to flats 6, 8/1 and 10 Marine Drive aforesaid.

'Block H' means the block of SIXTEEN flatted dwellinghouses



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constructed or to be constructed within the Development on the area of ground shown outlined in red and coloured green on said Supplementary Plan, comprising the flatted dwellinghouses forming and known as flats 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 at 4 Marine Drive and flats 2 and 6/1 Marine Drive, Edinburgh, EH5 1FD together with the patio ground pertaining to flats 2, 4/1, 4/2 and 6/1 Marine Drive aforesaid.

'Block J' means the block of SIXTEEN flatted dwellinghouses constructed or to be constructed within the Development on the area of ground shown outlined in red and partly coloured yellow and hatched red on the said Supplementary Plan, comprising the flatted dwellinghouses forming and known as flats 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 at 18 Colonsay Close, and flats 16/2 and 20 Colonsay Close Edinburgh EH5 1BF together with the patio ground pertaining to flats 26/2, 18/1, 18/2 and 20 Colonsay Close aforesaid.

'Block K' means the block of FOURTEEN flatted dwellinghouses constructed or to be constructed within the Development on the area of ground shown outlined in red and partly coloured yellow and hatched green on the said Supplementary Plan comprising the flatted dwellinghouses forming and known as flats 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 at 14 Colonsay Close and flats 12 and 16/1 Colonsay Close, Edinburgh EH5 1BF together with the patio ground pertaining to flats 12, 14/1 and 14/2 and 16/1 Colonsay Close as aforesaid.

'Block Common Parts' means in respect of a Block of Flats:

- (a) the solum on which the Block of Flats is erected, the foundations, the external walls, division walls, gables,
- (b) any security and entry phone system, excluding the telephone handsets located within the individual Flats and the fire alarm systems within the Block of Flats;
- (c) the common sewers, common drains, soil and rain water pipes, water, gas and other pipes, rhones and conductors, electric mains, cables, wires and other transmitters so far as used in common by or serving the Flats within the Block of Flats;
- (d) any access paths exclusively serving the Block of Flats and the entrance doors, porch and entrance steps or ramps (if any);



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(e) the common entrance halls and passages, the stairs, the walls and ceilings enclosing the stairs and passages with the windows and frames and casings thereof, the stair railings and landings, the lighting of the common entrance and passages under exception of the lobbies shown coloured blue and coloured purple on Supplementary Plan No.6 to the Title Plan, the Lift and Lift Common Parts, the Bin Store serving that Block of Flats (if any) and the garden ground (if any) pertaining to that Block of Flats;

(f) any wall, beam or column which is load bearing;

(g) all other parts of the Block of Flats which are used in common by or serve the Flats; and

(h) the water tanks serving the Block of Flats;

'Common Areas' means (1) those plots or areas of ground shown hatched yellow on the said Supplementary Plan No.6.

'Common Ground' means the Development under exception of:

(a) the Flats and the Blocks of Flats;

(b) any electricity sub-stations and gas governors;

(c) all other parts of the Development specifically conveyed to a Flat Proprietor or to two or more Flat Proprietors including the private patio areas shown hatched orange on the said Supplementary Plan No.6

(d) the Common Areas; and

it includes (but is not limited to) the open spaces, amenity areas, landscape areas play areas, access ways, ramps, walkways and all prospectively adoptable roads and footpaths and drains running through those areas.

'Community Burden' has the meaning assigned to it in accordance with Section 25 of the 2003 Act;

'Development' means those parts of the subjects at Granton Edinburgh registered in the Land Register of Scotland under Title Number MID89834; Under exception of the parking spaces areas shown coloured green and blue on said Supplementary Plan No.6





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'Factor' means the factor appointed under Rule 22 of this Deed;

'Flat' means a flatted dwellinghouse within the Development and includes any patio ground, which pertains exclusively to a flatted dwellinghouse;

'Flat Proprietor' means the owner of a Flat whether or not that person has completed title (and if more than one person comes within that description means such person as has most recently acquired such right); and where two or more persons own a Flat pro indiviso

'Flat Proprietor' means both or all of them and any obligations imposed on them shall bind them jointly and severally;

'Lift' means the lift in a Block of Flats;

'Lift Common Parts' means the whole plant and machinery associated with the Lift, the lift car, lift shaft, lift doors, lift pit, the lights, floor coverings (if any) and heaters in the Lift and lift shaft together with all wires, cables, power supplies and electrical apparatus, motor room and other items connected therewith;

'Lobby Shared Parts' means the shared entrance hall and passage, the walls and ceilings enclosing same, the shared entrance door, porch and entryphone system serving same;

'Maintenance' includes inspection repair, maintenance, replacement, restoration, renewal, cleaning, and painting; and the words "maintain" and "maintaining" shall be construed accordingly;

'Satellite System' means the satellite dishes and shared cabling serving Blocks (G and H) and (J and K) respectively, the said satellite dishes being attached to the outer walls of flats 8/12 Marine Drive and 14/12 Colonsay Close, Edinburgh;

'Service Strip' means an area or conduit normally two metres or thereby in width under or through which gas, water, electricity, drainage, telephone, communication and other services for a Block of Flats are led;

'Visibility Splay' means such an area as requires to be kept unobstructed so as not to prejudice the line of sight or visibility



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of any road user;

'Wayleave' means an area or conduit under or through which mains, pipes, drains, sewers, cables wires and other services are led which is not a Service Strip;

'2003 Act' means the Title Conditions (Scotland) Act 2003.

1.2 Where an obligation is placed on a Flat Proprietor to do or to refrain from doing something, the Flat Proprietor must also ensure that other occupiers of the Flat, or tenants of the Flat Proprietor, or anyone else for whom the Flat Proprietor is legally responsible either do or refrain from doing that thing.

### 2. FURTHER INTERPRETATION

2.1 In this Deed, unless the context otherwise requires:

2.1.1 Words importing the neuter gender only shall include the masculine or feminine gender (as the case may be) and words importing the masculine gender only shall include the feminine gender and vice versa.

2.1.2 Words importing the singular number shall include the plural number and vice versa.

2.1.3 Words importing persons shall include firms, companies and corporations and vice versa.

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

2.2 The clause headings in this Deed are for reference only and shall not affect the construction thereof.

## PART 2: COMMUNITY BURDENS

### A. LEGAL STATUS OF THE RULES

#### Rule 1 - Status of Rules and Date of Creation

1.1 The Rules set out in this Part are real burdens imposed on the Development as Community Burdens (in which the community is the



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Development) and are enforceable by the owner for the time being of each Flat, including any Flat retained by the Association, except that Rule 22 is a manager burden created in favour of the Association.

1.2 The Rules take effect on 5 May 2009.

### Rule 2 Variation and Discharge

2.1 This Rule provides for the variation or discharge of any rule in this Part -

(a) in respect of the whole Development or any part of the Development, and

(b) to the extent that the rule is a Community Burden

2.2 Rules 3, 4, 5, 6, 23, 24 and 25 may be varied or discharged by a deed of variation or discharge under section 33 of the 2003 Act granted -

(a) by or on behalf of the owners of at least two thirds of the Flats in the Development, or

(b) by the Factor.

2.3 But the Factor may grant a deed under Rule 2.2 only where authorised to do so under Rule 17.1(c).

2.4 No application may be made to the Lands Tribunal for Scotland under Section 90(1)(a)(i) and/or 91(1) of the 2003 Act in respect of the real burdens and servitudes contained herein for a period of 5 years after 8 Jul. 2009.

## B. THE FLATS

Rule 3 - Restrictions on building, alterations and sale of Garage/Flat Parking Space

3.1 No building (whether permanent, temporary, or portable) can be erected on any patio ground, terrace or Parking Space.

3.2 No building or flatted dwellinghouse within the Development can be enlarged, externally altered, reconstructed or rebuilt without Association Consent.



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3.3 Any ancillary building, Garage or Parking Space cannot be owned or ct separately from the Flat.

### Rule 4 - Use restrictions

4.1 Each Flat is to be used as a private dwellinghouse only, and may not be used, even in an ancillary capacity, for any trade, business or profession.

4.2 The Flat must not be subdivided or occupied by more than one household at a time.

4.3 No change can be made to the colour of the external paintwork of -

(a) the Flat

(b) any boundary wall or fence

4.4 The external paintwork referred to in Rule 4.3 must be repainted every five years. Such repainting will be carried out within the framework of a common scheme to be instructed and administered by the Factor.

### Rule 5 - Further Restrictions on Use

5.1 No trade, business or profession can be carried on in the Flat or Block of Flats (including the sale, making or manufacture of any beer, wine or liquors).

5.2 No board, card, plate or advertising notice of any kind can be placed on the Flat, Block of Flats or on any part of the Development.

5.3 Rule 5.2 does not apply to -

(a) a board or notice in relation to the sale of the Flat placed on or affixed to a Flat, but only after the Association has sold the last Flat within the Development;

(b) a maximum of two small plates affixed to a Flat showing the name of the owner of the Flat.

5.4 There must not be kept in the Flat or Block of Flats -



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(a) any poultry, ducks, pigeons, bees or other livestock, or

(b) any other animal which is a nuisance to adjoining Flat Proprietors

and a Flat proprietor must not breed any animals in the Flat or Block of Flats

5.5 No satellite dish or other television or communications facilities shall be affixed to the Flat or erected on or affixed to the Block of Flats without Association Consent. Declaring that the Flats are served by the satellite system.

5.6 Nothing may be done in a Flat or Block of Flats which constitutes a nuisance or which occasions disturbance to other Flat Proprietors.

5.7 A Parking Space may only be used for the parking of a private car. No caravan, boat, marine craft, trailer, commercial van, taxi, lorry, truck, cycle, caravanette or any type of commercial vehicle may be parked on a Parking Space. The parking of any motor car shall not be permitted on a Restricted Parking Space unless it is a private motor vehicle belonging to a disabled person or visitor

5.8 No rubbish bins or bags or any other form of refuse receptacle or any other articles of any nature shall be permitted to be left or deposited on the Block Common Parts, Common Areas or generally within the Development otherwise than in accordance with the regulations and recommendations of the local authority.

Rule 6 Maintenance of Flat and Buildings

6.1 The Flat Proprietor must -

(a) maintain the Flat in a good state of repair;

(b) maintain the Flat and any other items pertaining to the Flat in a good state of repair and decoration;

(c) ensure that no damage occurs to the Flat which might affect any adjacent Flat or building or create a nuisance to other Flat Proprietors;

(d) control vermin; and



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(e) immediately treat any dry rot or other form of rot or infestation which is detected, and repair any damage to water or other service pipes or wires forthwith after the same is detected.

6.2 In the event of a Flat Proprietor failing to adhere to Rule 6.1 any maintenance or other works in so far as relating to the external appearance may be carried out by the Association or the Factor with a right of reimbursement for all costs and expenses against the Flat Proprietor. Further, if damage is caused to another Flat or to the Block Common Parts or any other part of the Development as a result of a Flat Proprietor failing to adhere to Rule 6.1 (or as a result of failure to notify adjoining Flat Proprietors whose Flats may be affected with a view to safeguarding their property), the Flat Proprietor will be liable for damage caused thereby.

### Rule 7 Insurance

7.1 Each Flat Proprietor shall be bound to concur in keeping the Block of Flats constantly insured against loss by fire and other risks normally insured against under a common insurance Policy (the said Policy to cover all the Flats and the Block Common Parts) with an established insurance company for the full replacement value (increased by fifteen per cent to cover Architects' and Surveyors' fees) as assessed by the Association in the first place and thereafter by a majority of the Flat Proprietors from time to time which insurance shall be in the name of the Factor and taken out and held by the Factor for behoof of all the Flat Proprietors and the holders of bonds or other securities over the same (if any) for their respective right and interests; Each Flat Proprietor shall be liable for an equal share along with all other Flat Proprietors of the premium thereof in respect of each Flat owned by him in terms of; And in the event of the Development or any part thereof being destroyed or damaged by fire or other insured causes the whole sum received from the insurance company shall be expended in re-erecting, reinstating or repairing the Development or any part thereof damaged or destroyed and in paying said Architects' and Surveyors' fee.

7.2 Any Flat or Block of Flats which is destroyed or damaged must be re-built or repaired by the relevant Flat Proprietor(s) within two years from the date of damage or destruction occurring.

7.3 For the purposes of Rule 7.2 -



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- (a) the whole sums received from the insurers must be expended; and
- (b) the building must be restored to its previous design and dimensions.

7.4 The Flat Proprietors through the Factor shall effect insurance by a common policy in the name of the Factor for behoof of the Flat Proprietors against the property owners' liability arising from the ownership of the Common Areas the indemnity for which shall not be less than TWO MILLION POUNDS (£2,000,000) in respect of any one accident. Each Flat Proprietor shall be liable for an equal share of the premium thereof in respect of each Flat owned by him.

### Rule 8 - Mutual Gables

8.1 Any mutual gable wall between two Blocks of Flats or buildings is to be maintained in a good state of repair and at the joint expense of the respective owners.

### Rule 9 Service Strips

9.1 This Rule applies to any Service Strip in the Development.

9.2 The Service Strip must be kept in such a way that its location and identity are apparent, and it must be maintained in a neat and tidy condition.

9.3 Nothing can be planted or allowed to grow on the Service Strip other than grass seeding or turf and no rockeries or similar structures shall be placed thereon.

9.4 No building or other structure or anything which could impede immediate access can be erected on the Service Strip, and it must be kept clear of all surface and underground obstructions.

9.5 Any existing block paviers adjoining or forming part of the Service Strip must be left undisturbed.

9.6 Nothing must be done by any Flat Proprietor which would be likely to -

- (a) damage any pipes, ducts, cables or other apparatus within the Service Strip,

- (b) make access to such apparatus more difficult or expensive, or



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(c) alter the surface level of the Service Strip.

### Rule 10 -Visibility Splays

10.1 This Rule applies to any Visibility Splay in the Development.

10.2 Nothing can be planted or allowed to grow on a Visibility Splay other than grass seeding or turf.

10.3 No building or other structure or obstruction can be erected on a Visibility Splay.

### Rule 11 -Wayleaves

11.1 This Rule applies to any Wayleave in the Development.

11.2 No building or other structure can be erected on the Wayleave other than a building or a structure erected by the Association

11.3 But where the Wayleave is a sewer wayleave no building, structure or tree shall be erected or planted closer than two metres from such Wayleave.

11.4 No operations can be carried on there which would interfere with any sewer or, as the case may be, services.

## C: THE BLOCK COMMON PARTS, COMMON AREAS AND COMMON GROUND

### Rule 12 - Block Common Parts

12.1 The Block Common Parts, Lift and Lift Common Parts shall be maintained, repaired and renewed by the Flat Proprietors within the particular Block of Flats in a clean and tidy condition to the satisfaction of the Association and/or that of the Factor, and the cost of inspection, maintenance, repair and renewal thereof shall be borne equally by the Flat Proprietors within that Block.

12.2 The said inspection, maintenance, repair and renewal may be carried out on the instructions of the Association prior to the sale of the last Flat on the Development or by the Factor, each with a right of reimbursement against each Flat Proprietor.

12.3 Nothing may be done on the Block Common Parts which constitutes a nuisance or occasions disturbance to Flat Proprietors in that Block of Flats.





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12.4 No bicycles, prams, scooters or other items maybe stored or left on any of the Block Common Parts.

12.5 Where common lighting equipment has been installed in the common passages or stairs or a security or entry phone system installed, the Flat Proprietors of the relevant Block of Flats will be responsible for payment of the electricity account and all other maintenance and running costs pertaining to that Block of Flats each paying an equal share of such costs

12.6 The Flat Proprietors shall have a right of common property with each and every other Flat Proprietor within a Block of Flats to the Block Common Parts.

12.7 All driveways, paths, Parking Spaces, rhones, pipes and conductors must be kept free from obstruction.

### Rule 13 - Common Ground and Common Areas

13.1 All Flat Proprietors shall have a right of common property with each and every other Flat Proprietor within the Development to the Common Areas and the Common Ground. The Common Areas and Common Ground shall be maintained by the Flat Proprietors in a clean and tidy condition to the satisfaction of the Association and/or that of the Factor, and the cost of maintenance thereof shall be borne by the Flat Proprietors in equal shares. The obligation contained in this Rule shall extend to and include the maintenance of any roadways, footpaths, play areas and equipment located therein, woodland, lighting, electricity supplies, cables, fittings, fences, walls, steps, hedges, gates, support structures, any sewerage pumping station and all equipment relating thereto, sewers, drains, gas and mains water supply pipes, electricity mains and cables and other cables in so far as situated within the Common Areas. The obligation shall also extend to and include maintenance of all prospectively adoptable roads and footpaths within the Development.

13.2 The Common Areas and Common Ground shall remain open and unbuilt upon in all time coming except with Association Consent.

13.3 The said maintenance may be carried out on the instructions of the Association prior to the sale of the last Flat on the Development or by the Factor, each with a right of reimbursement against each Flat Proprietor.

13.4 Nothing may be done on the Common Areas or the Common Ground,



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which constitutes a nuisance or occasions disturbance to Flat Proprietors.

13.5 The playing of ball games on any part of the Common Areas or the Common Ground (other than on any part which is expressly designated for that purpose from time to time) is prohibited.

### 13.6 ROOF COMMON PARTS and SATELLITE SYSTEM

It is acknowledged that the roofs required separate rules to govern the obligations to maintain repair and renew same. The Roof Common Parts and Satellite System shall be maintained, repaired and renewed in a clean and tidy condition all to the satisfaction of the Association and / or that of the Factor.

The Flat Proprietors within Blocks G and H shall meet an equal share of the costs incurred in inspecting, maintaining, repairing, improving, renewing and rebuilding (1) the roofs and roof space, the flat roof structure beneath the timber decked balconies pertaining to the top floor flats, flat roof sections and the hatchways leading to the roof and roof space pertaining to Blocks G and H all as the same are shown outlined in red and partly coloured yellow and cross hatched in blue on Supplementary Plan No.7; (2) the Satellite System serving Blocks G and H and (3) the flat roof structure beneath the timber decked balconies pertaining to the top floor flats.

The Flat Proprietors within Blocks J and K shall meet an equal share of the costs incurred in inspecting maintaining, repairing, improving, renewing and rebuilding (1) the roofs and roof space, flat roof sections and the hatchways leading to the roof and roof space pertaining to Blocks J and K all as the same are shown outlined in red and partly coloured yellow and cross hatched red on the said Supplementary Plan No.7; (2) the Satellite System serving Blocks J and K; and (3) the flat roof structure beneath the timber decked balconies pertaining to the top floor flats

The said maintenance may be carried out on the instructions of the Association prior to the sale of the last Flat on the Development or by the Factor, each with a right of reimbursement against each Flat Proprietor in the manner described above.

Declaring that the Flats being Plot Numbers G4.1 being 8/11 Marine Drive, Plot G4.2 being 8/12 Marine Drive, Plot H3.2 being 4/12 Marine Drive, Plot H3.3 being 4/13 Marine Drive, Plot H4.4 being



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4/14 Marine Drive, Plot J3.3 being 18/13 Colonsay Close, Plot J3.4 being 18/14 Colonsay Close, Plot K4.1 being 14/11 Colonsay Close and Plot K4.2 being 14/12 Colonsay Close have timber decked balconies which are fixed to the flat roof structure, being a Roof Common Part, the Flat Proprietors for the said Flats 8/11, 8/12, 4/12, 4/13 and 4/14 Marine Drive and 8/13, 8/14, 14/11 and 14/12 Colonsay Close shall use their respective balconies in such a manner so as to avoid any damage being occasioned to the flat roof structure. They are prohibited from walking or erecting any structure or introducing any moveable item on any part of the roof which extends beyond their respective balcony. In the event a Flat Proprietor wishes to repair, maintain, renew or re-lay the timber decking of their balcony, they shall first require to consult with the Association and / or Factor to ensure that the proposed works will not damage the flat roof structure below the timber decking. Any damage to the roof structure caused by a Flat Proprietor will be repaired by the Factor and the costs incurred in making such a repair will be borne by the Flat Proprietor who caused or permitted such damage to be occasioned.

### 13.7 LOBBY SHARED PARTS

The ground floor Flat Proprietors of Flats 6/1 and 6/2 Marine Drive, Edinburgh will meet an equal share of the costs incurred in inspecting, maintaining, cleaning, repairing, renewing and improving the Lobby Shared Parts pertaining to the Lobby shown coloured purple on the said Supplementary Plan No.6.

The ground floor Flat Proprietors of Flats 16/1 and 16/2 Colonsay Close, Edinburgh will meet an equal share of the costs incurred in inspecting, maintaining, cleaning, repairing, renewing and improving the Lobby Shared Parts pertaining to the Lobby shown coloured blue on the said Supplementary Plan No.6.

The Lobby Shared Parts shall be maintained, repaired, renewed in a clean and tidy condition all to the satisfaction of the Association and / or that of the Factor.

The inspection, maintenance, repair and renewal may be carried out on the instructions of the Association prior to the sale of the Last Flat on the Development or by the Factor, each with a right of reimbursement against each relevant Flat Proprietor.

Rule 14 = Decisions at Meetings



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14.1 The Flat Proprietors may make decisions in respect of the matters specified in Rule 17 at any meeting called in accordance with this Rule:

14.2 A meeting in relation to the Development, (excluding matters relating to Block

Common Parts) may be called by -

(a) any Eighteen Flat Proprietors; or

(b) the Factor

and may be held at such reasonably convenient time and place (but excepting weekends and public holidays) as they or he may determine.

14.3 A meeting is called by sending to each Flat Proprietor, not later than seven days before the day fixed for the meeting, a notice stating -

(a) the date and time fixed for the meeting and the place where it is to be held, and

(b) the business to be transacted at the meeting.

14.4 Any inadvertent failure to comply with Rule 14.3 with respect to any Flat Proprietor does not affect the validity of proceedings at a meeting.

14.5 A Flat Proprietor may appoint a mandatory to attend the meeting and to vote on his behalf.

### Rule 15 - Conduct of Meeting

15.1 A meeting is not to begin unless there is present or represented a quorum, that is to say, at least eighteen of the Flat Proprietors entitled to attend.

15.2 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 Factor (or, if the Factor is not present, by a



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majority of the Flat Proprietors present or represented), and

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

15.3 A meeting may be postponed only once; and if at a postponed meeting the provisions in Rule 15.1 as respects a quorum are not satisfied, then the Flat Proprietors who are present or represented are to be deemed a quorum.

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

15.5 The Flat Proprietors present or represented are to elect one of their number or the Factor to be chairman of the meeting.

15.6 The chairman is to arrange for a person to take minutes of the meeting.

15.7 Any Flat Proprietor present or represented may nominate additional business to be transacted.

### Rule 16 - Voting

16.1 One vote is allocated to each Flat and any right to vote is exercisable by the Flat Proprietor or his mandatory.

16.2 If a Flat is held by two or more persons, the vote allocated to that Flat may be exercised by either (or any) of them; but if these persons disagree as to how the vote should be cast then no vote is to be counted for that Flat.

16.3 A decision is made by majority vote of all the votes cast.

16.4 But where the Association is the proprietor of any Flat or any share of a Flat, no decision is made unless it is supported by the vote for that Flat.

16.5 A decision on a matter specified in Rule 17 is binding on all the Flat Proprietors and on their successors as Flat Proprietors.

### Rule 17 Matters on which Decisions May Be Made

17.1 At a meeting the Flat Proprietors may decide -



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- (a) to appoint a person, firm or company as Factor on such terms as they may specify;
- (b) to confer on the Factor the right to exercise such of their powers as they may specify, including -
  - (i) the power to make a binding decision on the matters mentioned in paragraphs (f) and (g) below, and
  - (ii) the power to enforce any rule;
- (c) to confer on the Factor the power to grant, under Rule 2, -
  - (i) a specific deed of variation or discharge, or
  - (ii) deeds of variation or discharge of a specific kind;
- (d) to revoke, or vary, the right to exercise such of the powers conferred under paragraphs (b) and (c) above as they may specify;
- (e) to dismiss the Factor;
- (f) to order maintenance, repairs, decoration, cleaning and other routine works in respect of the Common Areas and the Common Ground;
- (g) to employ such gardeners, cleaners and other staff as may be required for the maintenance and preservation of the Common Areas and the Common Ground;
- (h) to fix the amount of the annual maintenance charge (as to which see Rule 20);
- (i) to fix the amount of the initial deposit (as to which see Rule 21);
- (j) to nominate a person to collect, on behalf of the Flat Proprietors, the annual maintenance charge or the initial deposit; and
- (k) to contract with service and utility providers;
- (l) to fix the amount of insurance cover;
- (m) to modify or revoke any previous decision.

17.2 The Factor shall be entitled to instruct and have executed



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such works considered necessary for the interim protection or safety of the Development or any part thereof or of any person without a meeting having to be called.

### Rule 18 - Decision making for Block Common Parts

18.1 A meeting in relation to the Block Common Parts of a Block of Flats may be called by -

(a) any three Flat Proprietors within the relevant Block of Flats;  
or

(b) the Factor

and may be held at such reasonably convenient time and place (but excepting weekends and public holidays) as they or he may determine.

18.2 Rules 14, 15 and 16 (under exception of Rules 14.1, 14.2 and 16.5) shall apply to decision making in relation to Block Common Parts except that the quorum required under Rule 15.1 shall be at least three of the Flat Proprietors in the relevant Block of Flats.

18.3 At a meeting convened under Rule 18 the Flat Proprietors in the same Block of Flats may decide -

(a) to order maintenance, repairs, decoration, cleaning and other routine works in respect of the Block Common Parts and to employ such gardeners, cleaners and other staff as may be required to carry out same;

(b) to fix the amount of the annual maintenance charge due in relation to Block Common Parts (as to which see Rule 20);

(c) to confer on the Factor the right to exercise any of the powers specified in 18.3 (a).

18.4 The Factor shall be entitled to instruct and have executed such works considered necessary for the interim protection or safety of a Block of Flats or any part thereof or of any person without a meeting having to be called.

### Rule 19 - Liability for Costs

19.1 Maintenance and other costs arising out of a binding decision



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on a matter specified in Rule 17 and the relative remuneration and costs incurred by the Factor shall be paid by the Flat Proprietors equally among the Flats and each Flat Proprietor is liable accordingly

19.2 Maintenance and other costs arising out of a binding decision on a matter specified in Rule 18 and the remuneration and costs incurred by the Factor in relation to Block Common Parts shall be paid by the Flat Proprietors in the equal proportions

19.3 All other costs shall be paid by the Flat Proprietors as specified in this Deed.

19.4 The Factor is entitled to collect from the Flat Proprietors at regular intervals their share of the costs and sums due in terms of this deed.

19.5 The Factor can recover unpaid costs on behalf of the Flat Proprietors and may do so in his own name.

19.6 Where a cost cannot be recovered from a Flat Proprietor for some reason such as that

(a) the estate of that Proprietor has been sequestrated, or

(b) that Proprietor cannot, by reasonable inquiry, be identified or found, then that share must be paid by the other Flat Proprietors as if it were a cost mentioned in Rule 19.1.

19.7 The Factor shall have the authority to require the Flat Proprietors concerned to make payment in advance of their respective shares of the cost of any major works.

### Rule 20 - Annual Maintenance Charge

20.1 Each Flat Proprietor must pay to the Factor (or to a person nominated for that purpose) the maintenance charge fixed in accordance with Rules 17.1(h) and 18.3(b).

20.2 The maintenance charge is an advance payment in respect of a Flat Proprietor's liability for maintenance and other payments under this Deed.

20.3 Where, in any year, the annual maintenance charge exceeds a Flat Proprietor's liability under this Deed, the excess is to be





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retained as an advance payment for liability in subsequent years.

20.4 The Factor shall, within three months after the end of each calendar year, if requested to do so by any Flat Proprietor in writing, make available -

(a) at a meeting of the Flat Proprietors or

(b) if the Flat Proprietor so requests, at the Factor's place of business a full and vouched statement of account of his intromissions in respect of the preceding calendar year.

20.5 All sums held by the Factor in respect of the Development (whether by virtue of this or any other rule) are held by him in trust for the Flat Proprietors.

### Rule 21 - Manager Burden

21.1 The Development is subject to the manager burden in Rule 22.2 which is hereby created in favour of the Association.

21.2 The Association or anyone appointed by the Association for the purpose may:

21.2.1 act as the Factor of the Development;

21.2.2 appoint some other person to be such Factor;

21.2.3 dismiss any person appointed by virtue of Condition 21.2.2

for five years from 8 Jul. 2009 or until the Association no longer owns any Flat in the Development, whichever is the shorter period.

21.3 On the expiry of the manager burden created in Rule 21.2, the appointment of the Factor shall continue until terminated by the Flat Proprietors who may at a meeting convened under Rule 15 re-appoint the nominated Factor or terminate their appointment, but termination is only valid if another Factor is appointed in their place. Declaring for the avoidance of doubt that there shall only be one Factor for the Development at any one time.

21.4 The Factor shall be entitled from the commencement of his appointment to exercise the rights specified in Rules 17.1 (f) to 17.1 (l) inclusive and 18.3(a) and 18.3(b) and shall apportion the costs incurred thereby amongst the various Flat Proprietors in



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accordance with the provisions of these presents and shall have such additional or alternative powers and duties as may be conferred on the Factor by the Association (in relation to any period when the Factor is appointed under Rule 21) or the Flat Proprietors (in relation to any subsequent period when the Factor is appointed by the Flat Proprietors under Rule 17).

### Rule 22 - Change of owner or occupier

22.1 In the event of a change of ownership of a Flat the proprietors thereof shall provide the Factor with at least four weeks' notice of the intended change by sending a notice by first class post to the Factor and such notice shall include details of the names of the incoming proprietors, the date of the proposed change and forwarding address for the outgoing proprietors.

22.2 In the event of a change of occupancy of a Flat the proprietors thereof shall provide the Factor with at least four weeks' notice of the proposed change by sending a notice by first class post to the Factor and such notice shall include details of the names of the incoming occupiers and a contact address for the existing proprietors.

### D: THE DEVELOPMENT

#### Rule 23- Restrictions on use of Development

23.1 No shops or other buildings can be erected on the Development

(a) for the sale of wine, spirits or other excisable liquors, or

(b) for the making or manufacture of any goods for sale.

23.2 No motor cars, caravans, motor cycles or other vehicles can be parked on any path, border, garden or on the Common Areas (except that private cars may be parked on the Common Parking Spaces in accordance with Rule 57).

23.3 No skips or building materials can be parked or placed on any part of the Development unless the same are (i) parked or placed on a Flat Parking Space by the Proprietor of such Parking Space and (ii) removed within 3 months of being so parked or placed.

23.4 All roads, paths and footways must be kept free from



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obstruction.

23.5 No part of the Development or Common Areas shall be used for the bleaching or drying of clothes except any rear garden ground of a Flat.

23.6 Existing trees and shrubs growing on the Common Areas shall not be pruned, cut down or damaged unless by order of the Local Authority unless the same are pruned, cut down or damaged within the framework of a common maintenance plan approved and agreed between the Factor and the Local Authority.

23.7 The Bin Stores situated on the Development are to be used now and in all time coming for the storage and collection therefrom of domestic refuse and for no other purpose whatsoever and shall be held in all time coming by each of the Flat Proprietors entitled to use same under the burden of upholding and maintaining the internal walls, floors, ceilings, doors and doorways (if any) in good order and repair.

### Rule 24- Dogs

24.1 Except within the dog owner's own Flat no dog is permitted on the Development unless it is

- (a) kept on a lead, and
- (b) accompanied by a responsible person.

24.2 No dog must be allowed to foul any part of the Development.

### Rule 25- Deposit

Declaring that since the Managing Agents will require to advance the sums necessary to meet such costs and other common items, charges, insurance premiums and others in terms of these presents, each of the Flat Proprietors shall deposit in the event of the first sale of a Flat with the Factors at or prior to entry and in the event of the subsequent sale with the Factors within one month of their entry to a Flat the sum fixed by the Factors to form a float from which said costs may be met; The said float shall be held by the Factors in Trust for behoof of the Flat Proprietors within the Development for the foresaid purposes; In the event of a Flat Proprietor selling any Flat in his ownership such Flat Proprietor shall be entitled to recover the sum or sums deposited



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with the Factors under deduction of any proportion of the said costs as aforesaid due in respect of his Flat always provided that the person to whom such Flat is sold has deposited with the Factors the deposit to be paid by such purchaser determined by the Factors as aforesaid; For the avoidance of doubt no interest shall be payable to any Flat Proprietor in relation to such deposit or float or any part thereof which may be refunded as aforesaid

### PART 3: SERVITUDES

#### A. Community Servitudes

Benefited and burdened properties

A.1 The rights in this clause A are imposed as servitudes on the Development in favour of each Flat.

Use of roads

A.2 There is a right of access for pedestrian and vehicular traffic over all roads, ramps, footpaths and lanes within the Development.

Access for repairs

A.3 For the purpose of inspecting, cleaning, repairing and renewing

(a) any building, wall, fence or other structure erected on the Development;

(b) the drains, sewers, electric cables, gas and water mains, and other pipes, cables, wires, enclosed units and services serving a Flat or Block of Flats;

(c) the Block Common Parts;

(d) any part of a Flat;

(e) the Lobby Shared Parts; and

(f) the Roof Common Parts

or for any other necessary and reasonable purpose there is a right of access over any other part of the Development.

A.4 But the rights in A3 may be exercised only where -



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- (a) it is reasonably necessary for the purpose in question, and
- (b) reasonable notice has been given (except in the case of emergency).

### Service media

A.5 There is a right to lead pipes, cables, wires or other enclosed units over or under the Development for sewage, electricity, gas, water and all other necessary services.

A.6 This includes a right -

- (a) to install, construct and lay drains, sewers, electric cables, gas and water mains, and other pipes, cables and enclosed units;
- (b) to connect into such drains, sewers, electric cables, gas and water mains, and other pipes, cables and enclosed units as already exist or are installed by virtue of paragraph (a), and
- (c) to carry out all necessary acts of inspection, maintenance and renewal.

### B: MANNER OF EXERCISE OF RIGHTS

B.1 In the exercise of the rights conferred by Part 3 of this Deed, disturbance and inconvenience must be kept to a minimum, and all damage must be made good at the expense of the party exercising the right.

### C: RIGHTS IN FAVOUR OF STATUTORY UNDERTAKERS

C.1 There are reserved in favour of the Association, the Local or public Authorities, statutory undertakers and any other public utility or service provider all necessary rights of access for the installation, repair, maintenance, cleaning and renewal of all electric and telegraphic cables, water, gas and drainage pipes, sewers, soil, waste and water supply pipes and all other cables, pipes and transmitters and other services serving the Flats in the Development, in through and under any part of the Development.

### D: RESERVATION OF MINERALS

D.1 There is reserved to the Association (but subjects always to the terms of the Coal Act 1938 and the Coal Industry



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Nationalisation Act 1946), the whole coal, shale, limestone, marl, iron stone, clay, freestone, slate, marble and other stone and all other mines, metals, minerals and fossils though not hereinbefore specially enumerated within and under the Development with full power and liberty to the association, or to any person authorised by the Association, but without entering on the surface of the Development to search for, work, win, raise, calcine, manufacture and carry away the said minerals and others and to do everything necessary for all or any of those purposes, but declaring that the person exercising any of the reserved rights and powers shall be bound to make payment to the Flat Proprietors of all damage which may be thereby occasioned to the surface of the Development or the buildings erected or to be erected thereon, as such damage shall, failing agreement, be ascertained by arbitration.

### E: MISCELLANEOUS

E.1 each Flat Proprietor shall be bound to make the title deeds to their respective Flat forthcoming to the Association or the Factor for a reasonable time on all necessary occasions when required, and that free of expense to the Association and/or the Factor.

E.2 The Association reserves the right to alter or modify in whole or in part the reservations, real burdens, conditions and others herein contained and in the event of us so doing no Flat Proprietor shall have the right or title to object thereto and shall have no claim in respect thereof. Further, the Association reserves the right to make whatever alterations or deviations as the Association consider proper upon any of the title deed plans to any part of the Development or even to depart entirely therefrom and there is reserve to the Association the right to dispose of any part of the Development for such a purpose as the Association may think fit or to alter or modify in whole or in part the terms of this deed, and no Flat Proprietor shall have any right or title to object thereto and shall have no claim in respect thereof;