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## Title Information: WLN56338

### Search summary

Date/Time of search	23-03-2020 15:47:09
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Transaction number	SCO-05099297
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User reference	
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**Section A****WLN56338**

## Property

Date of first registration	07-07-2006
Date title sheet updated to	19-04-2019
Date land certificate updated to	19-04-2019
Hectarage Code	0
Real Right	OWNERSHIP
Map Reference	NT1275
Title Number	WLN56338
Cadastral Unit	WLN56338
Sasine Search	
Property address	23 TEMPLAR CRESCENT, KIRKLISTON EH299GJ

**Description**

Subjects cadastral unit WLN56338 23 TEMPLAR CRESCENT, KIRKLISTON EH29 9GJ edged red on the cadastral map; Together with (One) the whole rights, common, mutual, sole and otherwise pertaining thereto specified in the Deed of Conditions in Entry 2 and the Supplementary Deed of Conditions in Entry 4 of the Burdens Section; (Two) the servitudes specified in the Deeds of Conditions in Entries 1 and 2 and the Supplementary Deed of Conditions in Entry 4 of the Burdens Section; and (Three) the subsisting rights to real burdens specified in the Schedule of Particulars relative to Subsisting Rights to Real Burdens below.

**Notes**

1. The minerals are excepted. The conditions under which the minerals are held are set out in the Deed of Conditions in Entry 2 and the Supplementary Deed of Conditions in Entry 4 of the Burdens Section.

## Schedule of Particulars Relative to Subsisting Rights to Real Burdens

Entry No	Benefited Property	Real Burdens	Burdened Property
1	subjects in this Title and other subjects.	Deed of Conditions by Cala Ventures Limited and others, registered 17 Dec. 2010, in Entry 1 of the Burdens Section.	subjects outlined in yellow on supplementary data 1 to the title sheet under exception of the underground leasehold subjects indicatively delineated and hatched orange on said supplementary data 1.

Entry No	Benefited Property	Real Burdens	Burdened Property
2	subjects in this Title and other subjects	Deed of Conditions by Walker Holdings (Scotland) Limited, registered 21 Oct. 2016, in Entry 2 of the Burdens Section.	Development Area edged brown on the cadastral map
3	subjects in this Title and other subjects	Supplementary Deed of Conditions by Walker Group (Scotland) Limited, registered 11 Apr. 2017, specified in Entry 4 of the Burdens Section.	Development Area edged brown on the cadastral map under exception of Plots 42, 43, 44, 45 and 48

**Shared Plots**

The following shared plot(s) relate to this sharing plot to the extent specified

Plots	Pro Indiviso Share
WLN51610	1/75
WLN51984	1/70

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Section B

WLN56338

Proprietorship

NEIL ROSS SAMPSON and FIONA ALISON MACAULAY both 30 Rosethorn Wynd, Dunfermline, KY12 7YN equally between them.

Entry number	1
Date of registration	19-04-2019
Date of Entry	05-04-2019
Consideration	£290,000

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Section C

WLN56338

Securities

Entry number	1
Specification	Standard Security by said NEIL ROSS SAMPSON and FIONA ALISON MACAULAY to NEWCASTLE BUILDING SOCIETY incorporated under the Building Societies Acts Portland House, New Bridge Street, Newcastle upon Tyne NE1 8AL.
Date of registration	19-04-2019

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## Section D

**WLN56338**

### Burdens

Number of Burdens: 5

#### **Burden 1**

Deed of Declaration of Conditions, registered 17 Dec. 2010, by Cala Ventures Limited (hereinafter called "CALA"), Walker Holdings (Scotland) Limited (hereinafter called "Walker") and BDW Trading Limited (hereinafter called "Barratt"), Proprietors of the Whole Subjects (as after defined), with consent of Bank of Scotland plc as heritable creditor, sets forth and declares burdens &c in the following terms:

##### 1 Definitions

1.1 In this deed, including the foregoing narrative and the Management and Maintenance Specification (as after defined), the following terms and expressions shall have the meanings respectively set opposite them unless the context otherwise requires:

"the Access Roads" means the Access Road East and the Access Road West, together;

"the Access Road East" means roads with relative footpaths, pavements, Service Media and street lighting formed or to be formed within the area of ground shown outlined in light blue and labelled "East Road" on Plan 1, including all roundabouts, turning areas, verges, swales and bellmouths formed in relation to the same;

"the Access Road West" means roads with relative footpaths, pavements, Service Media and street lighting formed or to be formed within the area of ground shown outlined in light blue and labelled "West Road" on Plan 1, including all roundabouts, turning areas, verges, swales and bellmouths formed in relation to the same;

"Annual Maintenance Charge" means the pro rata share applicable to each Plot of the total annual costs incurred by the Open Ground Proprietor in effecting the Management Operations, together with reasonable management remuneration, insurance premiums and charges (plus all Value Added Tax exigible thereon) for the relevant year, which pro rata share shall in the case of each Plot be calculated by reference to the total number of Plots constructed or permitted to be constructed upon the Whole Subjects from time to time with each Plot bearing annually the proportion of the said costs, remuneration, premiums and charges which the relevant Plot bears to the total number of plots constructed or permitted to be constructed upon the Whole Subjects from time to time (and so that and by way of illustrative example only, if the said total number of Plots amounts to one hundred (100), each Plot shall bear a one-hundredth share of the said costs, remuneration, premiums and charges annually);

"Barratt Land" Means the Parcels indicatively shown outlined in red, partly hatched blue, partly coloured pink and labelled "Area A", "Area B", "Area C" and "Area D" on Plan 1;

"CALA Land" means the Parcels indicatively shown outlined in red and labelled "Area H", "Area I" and "Area J" on Plan 1;

"Community" means community having the meaning assigned to it by section 26(2) of the 2003 Act;

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

"this Deed" means this deed of conditions as amended, varied and/or extended from time to time;

"Developer(s)" means us and our successors as proprietors of a Parcel for the purpose of development of that Parcel, or any part thereof;

"Distributions Network Operator "DNO")" means any company or statutory undertaker authorised and licensed to distribute electricity by the Gas and Electricity Markets Authority (GEMA) or its successors in title as the nominated high voltage supplier of the electricity substation/switching and metering station to be erected on the Utility Ground;

□Dwellinghouse□ means any dwelling including any car parking space or pro indiviso share therein conveyed or to be conveyed in association with such a dwelling;

"EARL Ground" means the areas shown hatched blue on Plan 1 and forming part of the Barratt Land and the Walker Land;

"Electric Lines" means any lines which are used for carrying electricity or electronic communications for any purpose and including any support for any such lines, any apparatus connected to any such lines and any wire, cables, tube, pipe or other similar thing (including its casing or coating) which surrounds or supports or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with any such lines and also including connections, cable markers, cable terminals, drains, culverts, inspection hatches, jointing bays and other underground works;

"Electricity Cable Routes" means the land coloured yellow on Plan 2;

"Gas Equipment" means gas pipes, cables, ducting and other apparatus for the transmission and distribution of gas;

"Landscape Strip" means the strip of ground shown coloured pink forming part of the Parcel labelled "Area A" on Plan 1 and forming part of the Barratt Land;

"Management and Maintenance Specification" means the management and maintenance specification below;

"Management Operations" means all works and others comprised in the management, maintenance and where necessary renewal of the Open Ground, the SUDS Ponds and the EARL Ground as amenity woodlands, landscaped open spaces, play areas, SUDS ponds, surface water drainage and attenuation schemes and artworks in accordance with the

Management and Maintenance Specification and generally at all times in accordance with generally prevailing principles of sound silvicultural and/or sound residential land management practice (as the case may be);

"the Open Ground" means all (actually or prospectively) grassed and planted areas and all other amenity or open land lying within the Whole Subjects and outwith the Parcels (specifically including any play areas and the SUDS Ponds) (but specifically excluding the Utility Ground and the EARL Ground) and which areas are indicatively shown stippled green on Plan 1, and as the context of conveying the same in tranches or phases may require, such relevant part thereof;

"Open Ground Proprietor" means Scottish Woodlands Limited incorporated under the Companies Acts (Registered Number SCIOI789) and having its registered office at Research Park, Riccarton, Edinburgh, EH14 4AP or an equivalent landscape maintenance company or body to whom the Open Ground and/or the Access Roads or any part thereof are conveyed, or their successors in title to the Open Ground and/or the Access Roads or such part thereof;

"Parcel" means any area of land within the Whole Subjects which is or is intended to be separately conveyed to the Developers, together with the whole buildings and other erections thereon which areas of land are indicatively shown outlined in red on Plan 1;

"Plan 1" means the plan marked "Plan 1" annexed and executed as relative to this Deed, a copy of which plan is included in this title sheet as Supplementary data 1 to the title sheet;

"Plan 2" means the plan marked "Plan 2" annexed and executed as relative to this Deed, a copy of which plan is included in this title sheet as Supplementary data 2 to the title sheet;

"Plan 3" means the plan marked "Plan 3" annexed and executed as relative to this Deed, a copy of which plan is included in this title sheet as Supplementary data 3 to the title sheet;

"the Planning Acts" means the Town and Country Planning (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Planning (Hazardous Substances) (Scotland) Act 1997 and the Planning (Consequential Provisions) (Scotland) Act 1997, the Planning etc (Scotland) Act 2006 and any future legislation of a similar nature;

"Plot(s)" means (Firstly) each of the plots or areas of ground on which a Dwellinghouse is constructed within a Parcel and (Secondly) save in relation to the EARL Ground, each of the plots or areas of ground for which detailed planning permission (or, if applicable (1) outline planning permission and approval of all reserved matters or (2) planning permissions in principle and all approvals required in terms of such planning permissions) required under the Planning Acts is obtained for a Dwellinghouse within a Parcel;

"Proprietor(s)" means the proprietor for the time being of any of the Plots and his/her/their successors as proprietor(s) of such Plot and where two or more persons own the same plot, includes both or all of them;

"Pumping Station" means the area of ground indicatively shown cross hatched brown and labelled "Pumping Station" on Plan 1;



"Service Media" means all sewers, drains, services, channels, pipes, wires, cables, aerials, ducting, valves and other conducting media, electricity, telephone, television, telecommunications and security cables (including shafts, vents, manholes, meters and connections, and plant and machinery associated with conducting media);

"SUDS Ponds" means the SUDS ponds and associated areas indicatively shown hatched pink on Plan 1;

"Utility Ground" means the site of any electricity substation and gas governor indicatively shown outlined and labelled in purple on Plan 1 or any other facility outwith the Parcels other than the Pumping Station to be conveyed by the Developers to a Utility Supplier;

"Utility Supplier" means any local or public authority supplying utilities or service provider supplying utilities, whether statutory or otherwise;

"VAT" means Value Added Tax chargeable under the Value Added Tax Act 1994 or any similar tax which may replace the same at any time;

"Walker Land" means the Parcels indicatively shown outlined in red, partly hatched blue and labelled "Area E" and "Area G" on Plan 1;

"the Whole Subjects" means the two areas of land shown outlined in yellow on Plan 1, comprising the subjects registered in the Land Register of Scotland under Title Numbers WLN37702 and WLN37703 UNDER EXCEPTION OF the underground leasehold subjects registered in the Land Register of Scotland under Title Numbers WLN29233 and WLN29429 shown indicatively delineated and hatched orange on Plan 1; and

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

## 2 Interpretation

2.1 In this Deed, save to the extent that the context otherwise requires:

2.1.1 words importing any gender include all other genders;

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

2.1.3 words which import the whole are to be treated as including reference to any part of the whole;

2.1.4 where at any one time in relation to a Parcel there are two or more persons included in the expression "Developer" obligations contained in this Deed are binding jointly and severally on them (but not so as to supply any joint and several liability among separate Developers in their capacity as owners of separate Parcels); Where at any one time in relation to a Plot there are two or more persons included in the expression "Proprietor" obligations contained in this Deed are binding jointly and severally on them (but not so as to supply any joint and several liability among separate Proprietors in their capacity as owners of separate Plots);

2.1.5 words importing individuals include legal persons and vice versa;

2.1.6 any reference to a Condition is to the relevant Condition of this Deed;

2.1.7 reference to any statute or statutory provision (including any subordinate legislation) includes any statute or statutory provision which amends, extends, consolidates or replaces the same, or which has been amended, extended, consolidated or replaced by the same, and includes any orders, legislation, instruments or other subordinate legislation made under the relevant statute or statutory provision;

2.1.8 the word "maintenance" shall include repair, maintenance, restoration, renewal, upkeep, cleaning and painting and the words "maintain" and "maintaining" will be construed accordingly; and

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

2.2 Any rights conferred on a Developer or a Proprietor by this Deed may be validly exercised by any person duly authorised by such Developer or Proprietor including its tenants, agents and tradesmen, but subject to any limitations or restrictions imposed upon such Developer or Proprietor by this Deed.

2.3 The condition headings in this Deed of Conditions are included for convenience only and are to be ignored in its construction.

### 3 Constitutive Deed

This Deed is a constitutive deed creating real burdens within the meaning of sections 4 and 122(1) of the 2003 Act.

### 4 Date of creation and application

The title conditions imposed by Conditions 5 to 10 inclusive are real burdens and the title conditions imposed by Condition 11 are servitudes. The real burdens and servitudes will take effect in respect of the Whole Subjects on the date of registration of this Deed in the Land Register of Scotland.

### 5 Community Burdens in relation to the Parcels

#### 5.1 Community Burdens

The real burdens set out in Conditions 5 and 6 which apply to the Whole Subjects as a Community, shall be and are hereby created real burdens enforceable as Community Burdens by the proprietors of all of the Parcels as units in the Community in terms of section 27 of the 2003 Act and are enforceable by and against (a) the Developers of each Parcel while the Developer retains ownership of the Parcel or part thereof; and (b) the Proprietors of each Plot.

5.2 Until the date on which the Access Roads are adopted for maintenance by the local or other authority, the Proprietors shall maintain the Access Roads (or the unadopted part thereof) and shall, whenever necessary, replace and renew the same and each of the said relevant

Proprietors shall be liable quoad their respective Plots for an equal share along with all the other said relevant Proprietors for the time being and us or our successors as Proprietors in respect of any unsold Plots of the cost of such replacement and maintenance.

5.3 In the event of the Developers supplying and installing the Access Roads and failing the Local Authority taking over responsibility for replacement and maintenance of such Access Roads (or part thereof), the Developers reserve the right and shall be at liberty to convey the Access Roads (or parts thereof) to the Proprietors and the Proprietors shall accept such conveyance.

5.4 Each Developer shall be bound to maintain the exterior of the buildings erected or to be erected on a Parcel insofar as owned by it at its own expense in good order, condition and repair and when necessary to renew and rebuild the same in accordance with statutory consents and requirements.

5.5 In carrying out any development or other works each Developer shall:

5.5.1 ensure that such development shall be carried out with the minimum of inconvenience to neighbouring or adjacent Developers or their tenants or occupiers or invitees and that no mud shall be allowed to remain on the Access Roads; and

5.5.2 conform in all respects with the provisions of all the Planning Acts and Local Authority Planning and Building Control and other relevant Local Authority and other statutory requirements, regulations, licences, consents, approvals, orders and others.

5.5.3 Following commencement of any development works on any Parcel, such Parcel shall in so far as not built upon (declaring that for the purposes of this Condition 5.5.3 the term "built upon" shall include the construction of parking areas associated with the buildings erected on the Parcel in question) (and subject as aftermentioned in Condition 7) be landscaped and such landscaping shall be maintained by the Developer thereof in a neat and tidy condition and to a reasonable standard and in compliance with any relevant provisions contained in the planning permission for the development of the Parcel in question. Without prejudice to the foregoing generality, each Parcel shall be kept in a neat, clean and tidy condition at all times by and at the expense of the proprietor thereof. Notwithstanding the foregoing, where a part of a Parcel is not built upon and the proprietor thereof can demonstrate to the reasonable satisfaction of the Developers as proprietors of adjacent Parcels that there are genuine proposals for it to be built upon within a period of six months, such proprietor shall not be obliged to landscape such part unless and until such proposals for building are no longer to be executed, but that without prejudice to the foresaid obligation to keep each Parcel in a neat, clean and tidy condition at all times.

5.6 All signs, notice boards, name plates and other forms of exterior signage, logos and identification located in or on any Parcel shall be of a size and style appropriate to the nature of the development provided on the Parcel and the type of business or activity carried on at the Parcel in question, and shall comply with any provisions contained in the planning permission and any other statutory consent obtained for such signage and any relevant provision contained in the planning permission for the development of the Parcel in question.

5.7 All walls and/or fences forming the boundaries between adjoining Parcels are or shall be erected as to one half of the breadth or thickness thereof on each of the adjoining Parcels and shall be maintained by the adjoining Developers and, after the disposal of a Plot adjoining such boundary, by the adjoining Proprietor, jointly in all time coming.

5.8 All walls and/or fences forming the boundaries between Parcels and (a) the Open Ground (b) the Utility Ground and (c) the SUDS Ponds are or shall be erected entirely on the Parcel and shall be maintained by the Developer of the Parcel and, after the disposal of a Plot adjoining such a boundary, by the Proprietor of the Plot. Where no Plot adjoins such a boundary said part of the boundary shall be maintained by the Developer of the Parcel and, after the disposal of the last Plot on the Parcel, shall be maintained by all the Proprietors equally. Where there are no Plots on the Parcel said boundaries will be maintained by the Developer and their successors as heritable proprietors of said Parcel.

5.9 In the event of the Developers supplying and installing play equipment in or on any play areas within the Open Ground and failing a Local or other authority whomsoever taking over responsibility for replacement and maintenance of such play equipment we reserve the right and shall be at liberty to transfer responsibility for replacement and maintenance to the Proprietors to the extent that such maintenance and replacement responsibility is not placed on the Open Ground Proprietor by this Deed by us intimating by recorded delivery letter to the Proprietors the transfer of said responsibility, whereupon the Proprietors shall maintain such play equipment in good and safe condition to the said extent and shall, whenever necessary, replace and renew the same and each of the Proprietors shall be liable quoad their respective Plots for an equal share along with all the other Proprietors for the time being and us or our successors in respect of any unsold Plots of the cost of such replacement and maintenance. Further, the Developers shall be entitled to convey the said play areas to the Proprietors and the Proprietors shall accept such conveyance.

5.10 In the event of the Developers supplying and installing the SUDS Ponds and Pumping Station and failing a Local or other authority whomsoever taking over responsibility for replacement and maintenance of the SUDS Ponds and Pumping Station we reserve the right and shall be at liberty to transfer responsibility for replacement and maintenance to the Proprietors to the extent that such maintenance and replacement responsibility is not placed on the Open Ground Proprietor by this Deed by us intimating by recorded delivery letter to the Proprietors the transfer of said responsibility, whereupon the Proprietors shall maintain such SUDS Ponds and Pumping Station and associated equipment and infrastructure to the said extent in good and safe condition and shall, whenever necessary, replace and renew the same and each of the Proprietors shall be liable quoad their respective Plots for an equal share along with all the other Proprietors for the time being and us or our successors in respect of any unsold Plots of the cost of such replacement and maintenance. Further, the Developers shall be entitled to convey the SUDS Ponds and/or Pumping Station to the Proprietors and the Proprietors shall accept such conveyance.

5.11 The Developers and the Proprietors shall not deposit refuse upon or otherwise exercise any rights which they may have over the Open Ground in such a manner as to cause nuisance or prejudice to the Open Ground or any part thereof or to prejudice or adversely effect the efficient and economic carrying out by the Open Ground Proprietor of any part of the Management Operations;

5.12 Where a road has been constructed and is not bounded by a footpath, no buildings or erections, trees or shrubs will be permitted within two metres of said road.

## 6 Insurance

Each of the Developers shall be bound to insure their Parcel and the building or buildings erected thereon against damage or destruction by fire, lightning, thunderbolts, storm, tempest, explosion, earthquake, impact by road vehicles, aircraft (other than hostile), riot, civil commotion, bursting or overflowing of water tanks, apparatus or pipes, flood, environmental hazards and malicious damage with an established insurance company for such sums as shall be reasonably sufficient to cover the costs (including architects', surveyors' and other professional fees, the cost of demolition and site clearance and an allowance for inflation) of completely rebuilding and/or replacing the Parcel in question. The Developers shall be bound to restore the Parcel destroyed or damaged as aforesaid as also by any other cause within three years from the date of such damage or destruction.

## 7 Burdens relating to Structure Landscaping

7.1 Nothing contained in this Deed shall prevent the Open Ground being conveyed to the Open Ground Proprietor in tranches or phases.

7.2 In this Condition 7.2:

"Benefited Property" means the Whole Subjects under exception of the Open Ground, the SUDS Ponds, the Pumping Station and the EARL Ground; and

"Burdened Property" means the Open Ground;

The following real burdens are imposed on the Burdened Property in favour of the Benefited Property:

7.2.1 The Open Ground Proprietors shall carry out the Management Operations.

7.2.2 Notwithstanding the foregoing, the Open Ground Proprietors shall be entitled, at all times, to use the Open Ground for such purposes as they in their sole discretion consider are necessary or appropriate as being ancillary to the maintenance and/or management of the Open Ground but acting at all times in accordance with generally prevailing principles of sound silvicultural and/or sound residential land management practice as the case may be.

7.2.3 Each Developer, Proprietor and their tenants and permitted occupiers and invitees shall have a right to the use of the Open Ground subject to the terms of this Deed.

Declaring that (a) the real burden contained in Condition 7.2.1 shall cease to have effect in relation to any part of the EARL Ground as shall become Plots, and (b) the real burden contained in Condition 7.2.1 shall cease to have effect at such time as the Benefited Property shall have ceased substantially to be used as a residential housing development. In such circumstances the terms of Condition 7.2.1 shall cease to have effect and the obligations imposed thereunder on the Open Ground shall cease to be enforceable by the Benefited Property.

### 7.3 In this Condition 7.3:

"Burdened Property" means the Plots (including, for the avoidance of doubt, Plots as may be created on the EARL Ground and as may be created in the Parcel labelled "Area K" shown on Plan 1 as from the date of such creation);

"Benefited Property" means the Open Ground;

The following real burdens are imposed on the Burdened Property in favour of the Benefited Property:

7.3.1 The Proprietors are hereby taken bound and obliged in all time coming to pay to the Open Ground Proprietors the Annual Maintenance Charge applicable from time to time to each Plot and which sum shall be payable in all time coming annually in advance by the Proprietor of each Plot; Declaring for the avoidance of doubt that nothing contained herein shall prevent or restrict the Developer from transferring responsibility for management and maintenance of part or parts of the Open Ground to the Open Ground Proprietors in terms hereof prior to the eventual conveyance of the Open Ground and in which case, from the date of such transfer of responsibility, all Proprietors will be bound to pay the Annual Maintenance Charge applicable to such part or parts of the Open Ground and the Open Ground Proprietors shall be entitled to enforce the rights and obligations imposed in terms of this Condition 7.3;

7.3.2 Subject to the proviso aftermentioned, the costs of effecting the Management Operations shall not be permitted to increase in any relevant year by a margin or amount (expressed as a percentage to two decimal places) which exceeds the increase for that year the margin or amount of increase in the rate of inflation (expressed as a percentage to two decimal places) as measured by the UK Index of Retail Prices provided always that the limit of increase shall not apply in respect of the increase in the said costs applicable at the end of the fifth year following the date of registration of this Deed of Conditions in the Land Register of Scotland and every fifth year following in perpetuity so as to ensure that at the end of such relevant period of five years the pro rata share applicable to each Plot for the succeeding year reflects any actual increase in the costs of the Management Operations.

### 7.4 Community Burdens

The real burdens set out in Condition 7.4 which apply to the Plots, the Parcels and the Open Ground as a Community, shall be and are hereby created real burdens enforceable as Community Burdens by the proprietors of the Plots, the Parcels and the Open Ground as units in the Community in terms of section 27 of the 2003 Act and are enforceable by and against the proprietors of the Plots, the Parcels and the Open Ground.

7.4.1 Subject to Condition 13 if a majority of the Proprietors agree that they wish any amendment to be made to the Management and Maintenance Specification in respect of the Open Ground (and declaring for the avoidance of doubt that in any questions requiring a decision to be made by the Proprietors each Proprietor shall be entitled to one vote per Plot) then the Proprietors or relevant majority will require to agree with the Open Ground Proprietors the appropriate variation in the costs arising from the said amendment which is appropriate having regard to the proposed variation in the Management and Maintenance Specification and if the Proprietors, or the relevant majority, and the Open Ground Proprietors are unable, after a period of three months



following intimation of a proposed amendment by the Proprietors to the Open Ground Proprietors, to agree upon the variation of said costs, then the question of the costs of the variation (but not any other matter) may, on the application of either of the parties be referred for determination by an independent expert experienced in landscape architecture and management to be appointed, failing agreement between the Open Ground Proprietors and the Proprietors, or the relevant majority, by the Chairman or other senior official of the Royal Institution of Chartered Surveyors in Scotland, on the application of the Open Ground Proprietors and the Proprietors, or the relevant majority, and the decision of such expert in respect of any variation in costs arising out of the proposed variation to the Management and Maintenance Specification, but not any other matter affected by this Condition 7.4.1, shall (save in the case of manifest error) be conclusive and binding upon the Open Ground Proprietors and the Proprietors, who shall all co-operate in the execution and registration of a Deed of Variation of this Deed of Conditions to effect the agreed or determined variation of the Management and Maintenance Specification and any relevant agreed or determined variation in the said costs;

7.4.2 All Proprietors are hereby bound and obliged not to deposit refuse upon or otherwise exercise any rights which they may have over the Open Ground in such a manner as to cause nuisance or prejudice to the Open Ground or any part thereof or to prejudice or adversely effect the efficient and economic carrying out by the Open Ground Proprietors of any part of the Management Operations. For the avoidance of doubt the whole costs incurred by the Open Ground Proprietors in the removal from the Open Ground of any such refuse or other fly tipping or other costs incurred as a result of such nuisance or prejudice shall be recoverable from the Proprietors in addition to the Annual Maintenance Charge;

7.4.3 No dog must be allowed to foul any part of the Open Ground and no dog is permitted on the Open Ground unless it is:

7.4.3.1 kept on a lead; and

7.4.3.2 accompanied by a responsible person.

7.4.4 For the purposes of enabling the Open Ground Proprietors always to be in a position to commence the carrying out of the Management Operations the Proprietors of each Plot shall, if so required on settlement of their purchase transaction from a Developer, pay at the time of settlement, the sum of ONE HUNDRED AND FIFTY POUNDS (£150) STERLING plus all or any Value Added Tax exigible thereon as a contribution towards the initial costs incurred by the Open Ground Proprietors in the initial carrying out of the Management Operations. Declaring for the avoidance of doubt that the said sum if paid is not refundable;

7.4.5 In the event of any Proprietor so liable failing to pay his, her or their proportion of the Annual Maintenance Charge within one month of such payment being demanded the Open Ground Proprietors shall (without prejudice to the other rights and remedies of the other Proprietors) be entitled to sue for and to recover the same in its own name from the Proprietor so failing together with all the expenses incurred by the Open Ground Proprietor provided always that it shall be in the option of the Open Ground Proprietors before or after taking any action to call a meeting of the Proprietors to decide if, and to what extent, such action should be pursued and that in the event of failure to recover such payments and/or the expenses of any action the remaining Proprietors shall be bound pro rata as aforesaid to reimburse the Open Ground Proprietors for any payment or expenses that the Open Ground Proprietors may have incurred.

7.4.6 Prior to the date of completion of the sale or other transfer of ownership of any Plot, the relevant transferring Proprietor is bound and obliged to provide written notice to the Open Ground Proprietors of the full names of the proposed transferee and failing such intimation as aforesaid the Open Ground Proprietors shall be entitled to continue to recover the Annual Maintenance Charge applicable to such Plot from the relevant transferring Proprietor until such intimation is given to the Open Ground Proprietors.

## 8 Burdens relating to the Landscape Strip

In this Condition 8:

"Benefited Property" means the Whole Subjects under exception of the Landscape Strip;

"Burdened Property" means the Landscape Strip;

The following real burdens are imposed on the Burdened Property in favour of the Benefited Property:

8.1 Save for the construction of driveways and pathways in accordance with any planning permission that may be obtained for the Parcel labelled Area A on Plan 1 forming part of the Barratt Land, no construction, building or other erection of any kind shall be permitted upon the Landscape Strip;

8.2 The Landscape Strip shall be used for landscaping and for such driveways and pathways permitted in accordance with Condition 8.1 and for no other purpose.

8.3 The Landscape Strip may not form part of any Plot except in so far as comprising driveways or paths which driveways and paths may form part of a Plot.

## 9 Burdens relating to the Utility Ground and the Pumping Station

9.1 In this Condition 9.1:

"Benefited Property" means the Whole Subjects under exception of the Utility Ground and the Pumping Station;

"Burdened Property" means the Utility Ground and the Pumping Station;

The following real burdens are imposed on the Burdened Property in favour of the Benefited Property:

9.1.1 The proprietors of the Burdened Property shall not deposit refuse upon or otherwise exercise any rights which they may have over the Open Ground in such a manner as to cause nuisance or prejudice to the Open Ground or any part thereof or to prejudice or adversely effect the efficient and economic carrying out of any part of the Management Operations;

9.1.2 In relation to each part of the Utility Ground and the Pumping Station belonging to them, each Utility Supplier shall maintain, repair and where necessary renew and replace the walls and/or fences surrounding that part of the Utility Ground and the Pumping Station, shall maintain,



repair and where necessary renew and replace all erections on that part of the Utility Ground and the Pumping Station, and shall keep that part of the Utility Ground and the Pumping Station free from litter, refuse and graffiti and in a neat and tidy condition.

9.2 In this Condition 9.2:

"Benefited Property" means the Utility Ground and the Pumping Station;

"Burdened Property" means Whole Subjects under exception of the Utility Ground and the Pumping Station;

The following real burdens are imposed on the Burdened Property in favour of the Benefited Property:

9.2.1 The proprietors of the Burdened Property will not cause or permit to be done any act which would in any way interfere with or damage any Electric Lines or the Gas Equipment retained or laid within the Burdened Property by the proprietor of the Benefited Property or the DNO in exercise of the servitude rights imposed in this Deed.

9.2.2 The proprietors of the Burdened Property will not alter or permit or suffer to be altered the existing level nor (subject as hereinafter provided) to cover or permit or suffer to be covered the surface of Electricity Cable Routes or on the line of the Gas Equipment in such a manner as to render the laying of Electric Lines or Gas Equipment thereunder or access to the Electric Lines or Gas Equipment retained or laid thereunder impracticable or more difficult than at the date hereof PROVIDED ALWAYS that nothing contained herein shall prevent the laying and/or re-laying (as the case may be) of appropriate surfaces on any part of the Electricity Cable Route or the line of the Gas Equipment which forms the site of an intended or existing road or footpath or other way after the initial laying of the Electric Lines or the Gas Equipment thereunder.

9.2.3 Without prejudice to the generality of Condition 9.2.1, not to erect or permit to be erected any building or structure (other than such as are shown on the plans annexed and executed as relative hereto) or to plant or permit or suffer to be planted any trees on or within a distance of 1.5 metres of the Utility Ground.

9.2.4 The Developers shall ensure that Access Roads are constructed to the specification of the local roads authority. Further, in relation to carriageways within the Burdened Property which are intended to be adopted by the local roads authority, the Developers shall ensure that the said carriageways are constructed to the specification of the local roads authority and the proprietors of the Plots within the respective Parcels shall maintain the said carriageways within that Parcel until the said carriageways are adopted by the local roads authority.

## 10 Burdens on the SUDS Ponds

10.1 In this Condition 10.1:

"Benefited Property" means the Whole Subjects under exception of the SUDS Ponds;

"Burdened Property" means the SUDS Ponds;

The following real burdens are imposed on the Burdened Property in favour of the Benefited Property:

10.1.1 The proprietors of the SUDS Ponds shall not deposit refuse upon or otherwise exercise any rights which they may have over the Open Ground in such a manner as to cause nuisance or prejudice to the Open Ground or any part thereof or to prejudice or adversely effect the efficient and economic carrying out of any part of the Management Operations;

10.1.2 In the event that the proprietors of the SUDS Ponds erect walls and/or fences around the SUDS Ponds, the proprietors of the SUDS Ponds shall maintain, repair and keep free from graffiti the said walls and/or fences.

## 11 Servitudes

### 11.1 Access and Services to the Parcels

In this Condition 11.1:

"Burdened Property" means the Whole Subjects under exception of the Parcels and the Utility Ground;

"Benefited Property" means each Parcel;

The following servitudes are imposed on the Burdened Property in favour of each Benefited Property:

11.1.1 a heritable and irredeemable servitude right of pedestrian and vehicular access over the Access Roads and, only where there is no practicable alternative route, over the Open Ground at all times and for all purposes;

11.1.2 a heritable and irredeemable servitude right to construct, lay, use, maintain, repair, renew and replace driveways or other access routes over the parts of the Open Ground lying between the Access Roads and the Parcels;

11.1.3 a heritable and irredeemable servitude right of pedestrian and vehicular access over the said driveways or other access routes referred to in Condition 11.1.2;

11.1.4 heritable and irredeemable servitude rights of wayleave over, through and under the Burdened Property for supplying, installing, maintaining, using, laying, inspecting, enlarging and connecting into all Service Media and SUDS Ponds within or to be constructed within the Burdened Property;

11.1.5 a heritable and irredeemable servitude right of access to the Service Media and SUDS Ponds for all purposes;

11.1.6 a servitude right to enter onto the Open Ground and SUDS Ponds or any part thereof (a) to plant trees and/or shrubs if necessary to comply with the requirements of the planning authorities (together with any necessary fencing or other protective measures to safeguard the

said trees and/or shrubs) and (b) for any other necessary purposes in connection with compliance with statutory consents;

## 11.2 Prospective City Car Club Parking Spaces

11.2.1 The proprietors from time to time of each Parcel shall have a heritable and irredeemable servitude right to construct up to a total of four car parking spaces on the Open Ground as is situated immediately adjacent to the Access Roads together with a right of vehicular and pedestrian access thereto across the Access Roads for the purpose of constructing and thereafter inspecting, maintaining, replacing and renewing the same, declaring that:

11.2.1.1 this servitude shall not imply any servitude right for the proprietors from time to time of each Parcel to park on the said car parking spaces, parking to be regulated from time to time by the Local or other Authority; and

11.2.1.2 in addition to the servitude conditions contained in Condition 12 of this Deed the proprietors exercising this right shall:

11.2.1.2.1 procure all necessary local authority consents;

11.2.1.2.2 construct the said car parking spaces to a standard whereby they may be adopted for maintenance by the Local or other Authority; and

11.2.1.2.3 use all reasonable endeavours to procure that the said parking spaces are adopted for maintenance by the Local or other Authority.

## 11.3 Access for Maintenance of Parcels/Plots

The proprietors from time to time of each Parcel shall have a heritable and irredeemable servitude right of pedestrian access over every adjoining Parcel for the purpose of carrying out necessary maintenance of the Parcel and/or the Plots.

## 11.4 Access for Development of Parcels/Plots

Only where there is no practicable alternative route, the proprietors from time to time of each Parcel shall have a heritable and irredeemable servitude right of pedestrian and vehicular access over the roads, footpaths and any unbuilt portions of the other Parcels for the purpose of carrying out the first development of the relevant Parcel.

## 11.5 Access to the Open Ground

The proprietors of the Open Ground from time to time shall have a heritable and irredeemable servitude right of pedestrian and vehicular access over the Access Roads at all times and for all necessary purposes.

## 11.6 Access and Services to the Substations

In this Condition 11.6:

"Burdened Property" means the Whole Subjects under exception of the Utility Ground, the SUDS Ponds, the Pumping Station;

"Benefited Property" means those two parts of the Utility Ground labelled "Sub Stn" on Plan 1;

The following servitudes are imposed on the Burdened Property in favour of each Benefited Property:

11.6.1 a non-exclusive heritable and irredeemable right of access to and egress from the Benefited Property in favour of the proprietors of the Benefited Property and all persons authorised by them for pedestrian and vehicular traffic with or without machinery and/or plant along the roads and footpaths within the Burdened Property;

11.6.2 A non-exclusive heritable and irredeemable servitude right to install, lay and use and thereafter alter, add to, inspect, maintain, repair, re-lay, renew, supplement and remove Electric Lines in, on or under the roads and footpaths within the Burdened Property and for any of the aforesaid purposes to enter upon the Burdened Property and to break up and excavate so much thereof as from time to time may be necessary and to remove and dispose of any surplus earth, together with:

11.6.2.1 a non-exclusive right of access over the roads and footpaths within the Burdened Property and over the Electricity Cable Routes for all necessary pedestrian and vehicular purposes together with equipment and materials relating to laying, using, altering, adding to, inspecting, maintaining, repairing, re-laying, renewing, supplementing and removing the Electric Lines;

11.6.2.2 a non-exclusive right of pedestrian and vehicular access, together with equipment and materials, over and onto any part of the Burdened Property which is reasonably required from time for the purposes of inspecting, maintaining, repairing and renewing the Benefited Property, the Electric Lines and the electricity substations erected on the Benefited Property but only to the extent that such maintenance, repair or renewal cannot reasonably practicably be carried out by taking access only over the Benefited Property, the Electricity Cable Routes or the roads and footpaths within the Burdened Property and declaring that no access shall be taken to or over any part of the Burdened Property which is or is intended to be a Plot or commercial unit without the consent of the proprietor thereof; and

11.6.2.3 the non-exclusive right to park vehicles on the roads and footpaths within the Burdened Property (save as otherwise provided in this Deed) (but not so as to obstruct the same or cause any unnecessary congestion or inconvenience to other users thereof) at all times for the purpose of exercising the said rights.

11.6.3 A non-exclusive heritable and irredeemable right, exercisable in addition by the DNO, for the purpose of maintaining supply and distribution to and from the Benefited Property, to:

11.6.3.1 take pedestrian and vehicular access to and egress from the Benefited Property at all times with or without vehicles, machinery, plant and apparatus over and along the roads and footpaths within the Burdened Property and over the

Electricity Cable Routes;

11.6.3.2 install, lay, use and thereafter from time to time alter, add, inspect, maintain, repair, renew, supplement and remove Electric Lines within the Electricity Cable Routes;

11.6.3.3 park vehicles on the roads and footpaths within the Burdened Property (save as otherwise provided in this Deed) (but not so as to obstruct the same or cause any unnecessary congestion or inconvenience to other users thereof) at all times for the purpose of exercising the said rights; and

11.6.3.4 take pedestrian and vehicular access together with equipment and materials, over and onto any part of the Burdened Property which is reasonably required from time for the purposes of inspecting, maintaining, repairing and renewing the Benefited Property, the Electric Lines and the electricity substations erected on the Benefited Property but only to the extent that such maintenance, repair or renewal cannot reasonably practicably be carried out by taking access only over the Benefited Property, the Electricity Cable Routes or the roads and footpaths within the Burdened Property and declaring that no access shall be taken to or over any part of the Burdened Property which is or is intended to be a Plot or commercial unit without the consent of the proprietor thereof.

#### 11.7 Drainage for Substations

The proprietors from time to time of those two parts of the Utility Ground labelled "Sub Strn" on Plan 1 shall have a non-exclusive heritable and irredeemable right to drain surface water from the said two areas onto the Whole Subjects into any existing or future drainage system therein.

#### 11.8 Access and Services to the Gas Governor

In this Condition 10.8:

"Burdened Property" means the area of ground coloured green on Plan 3;

"Benefited Property" means that part of the Utility Ground coloured pink on Plan 3;

The following servitudes are imposed on the Burdened Property in favour of the Benefited Property:

11.8.1 a non exclusive heritable and irredeemable right of pedestrian and vehicular access to and egress from the Benefited Property over and across the Burdened Property in favour of the proprietors of the Benefited Property and tenants of the whole or any part of the Benefited Property;

11.8.2 a non exclusive heritable and irredeemable servitude right to lay the Gas Equipment within the Burdened Property with the right thereafter to use, inspect, maintain, repair, replace, remove and renew (including the right to extend and enlarge) the Gas Equipment together with:

11.8.2.1 a right of access over that the Burdened Property for all necessary pedestrian and vehicular purposes relating to laying, inspecting, maintaining, repairing, replacing and when necessary renewing and removing the Gas Equipment;

11.8.2.2 the right to enter onto the Burdened Property and lop, cut or remove any trees, shrubs or bushes as shall be grown, cultivated or permitted to grow on the Burdened Property which might in the opinion of the Proprietor of the Benefited Property (acting reasonably) interfere with the rights contained in this Condition 11.8 and generally restrict any of the operations of the proprietor of the Benefited Property in relation to the use and operation of the Gas Equipment or the future use, operation, inspection, maintenance, repair, replacement, enlargement or removal thereof.

## 11.9 Access and Services to the SUDS Ponds

In this Condition 11.9:

"Burdened Property" means the Open Ground, the Access Roads and the SUDS Ponds;

"Benefited Property" means the Pumping Station;

The following servitudes are imposed on the Burdened Property in favour of the Benefited Property:

11.9.1 a heritable and irredeemable servitude right of pedestrian and vehicular access over the Burdened Property at all times and for all necessary purposes;

11.9.2 heritable and irredeemable servitude rights of wayleave over, through and under the Burdened Property for supplying, installing, maintaining, using laying, inspecting, enlarging and connecting into all Service Media within or to be constructed within the Burdened Property for all purposes;

11.9.3 a heritable and irredeemable servitude right of access to the Service Media within the Burdened Property for all purposes;

## 11.10 Additional Servitudes

There is reserved to the Developers full power and liberty to grant or retain servitude rights and wayleaves over the Access Roads and Open Ground in favour of any Developer and/or the Utility Suppliers to supply, install, lay, maintain, inspect, enlarge and connect into all Service Media within or to be constructed within the Access Roads and Open Ground, together with all necessary rights of access to the Service Media.

## 12 Servitude Conditions

The benefited proprietors in exercising any of the rights contained in Condition 11 shall:

12.1 cause the minimum interference practicable;

12.2 ensure that all physical damage thereby occasioned is made good to the reasonable satisfaction of the relevant burdened proprietor as soon as is reasonably practicable;

12.3 act reasonably at all times; and

12.4 where works are contemplated, give reasonable prior written notice (except in emergency) to the relevant burdened proprietors and respect the reasonable concerns and specific reasonable requirements of the relevant burdened proprietors.

### 13 Arbitration

All questions, differences or disputes which may arise between or among the Developers, the Proprietors, the Open Ground Proprietor and the Utility Suppliers or any of them arising directly or indirectly from the provisions of this Deed shall on the written request of a Developer be referred for determination to a single arbiter who shall be properly qualified to adjudicate on the matter in question to be appointed failing agreement on the application by a Developer (1) by the President of the Law Society of Scotland where the question, difference or dispute involves a matter of law or (2) in any other case, by the Chairman for the time being of The Royal Institution of Chartered Surveyors in Scotland. Any persons appointed shall act as an arbiter and the determination of such person in relation to the relevant question, difference or dispute shall be final and binding on all concerned who shall be bound to implement the decisions, findings and decrees of any such arbiter forthwith or within such other timescale as may be determined by the arbiter. The application of section 3 of the Administration of Justice (Scotland) Act 1972 is expressly excluded. The costs of the parties in relation to such dispute (including those of the arbiter) shall be borne in accordance with direction of the arbiter, or, failing such direction, equally by the parties in relation to the arbiter costs and otherwise each party bearing its own costs.

### 14 Notices

14.1 All notices shall be served in writing.

14.2 Subject to Condition 14.3 notice to the Developers (if a corporation) shall be sufficiently served if sent by registered post or recorded delivery to or left addressed to them at their registered office and (if the Developer shall be an individual or partnership) shall be sufficiently served if sent by registered post or recorded delivery to or left addressed to him or them at his or their last known address in the United Kingdom.

14.3 A notice sent by registered post or recorded delivery shall be deemed to have been duly served at the expiration of forty eight hours after the time of posting.

14.4 In proving service, it shall be sufficient to prove that the envelope containing the notice was duly addressed to the party concerned in accordance with this Condition 13 and left at or posted to the place to which it is so addressed.

### 15 Lands Tribunal Applications

No application may be made to the Lands Tribunal for Scotland under section 90(1)(a)(i) and section 91(1) of the 2003 Act in respect of the community burdens and servitudes created in this

Deed for a period of five years after the date of registration of this Deed of Conditions in the Land Register of Scotland.

### 16 Continuing Enforceability



In the event that, for whatever reason, any one or more of the community burdens and servitudes and others contained in this Deed is or are no longer relevant or is or are no longer enforceable or is or are deemed to be no longer enforceable, the remainder of the community burdens, servitudes, and others contained in this Deed shall remain in full force and effect.

#### Management and Maintenance Specification

##### Insurance

The Open Ground Proprietors shall maintain Property Owners' Liability insurance to protect the owners of the Whole Subjects from any Third Party claims arising from the Open Ground.

##### Specification for Summer Maintenance

The following is a summary of the routine maintenance programme required during the growing season each year.

The summer maintenance programme shall run from 1 April to 31 October each year, which dates may be adjusted by the Open Ground Proprietors (acting reasonably in order to take into account seasonal variations in the growing season) to another date not further than four weeks from 1 April or 31 October (as the case may be) each year, and declaring that in any event the summer maintenance programme shall always immediately follow and be immediately followed by the winter maintenance programme.

Maintenance visits shall generally take place at two-weekly intervals, dependent on site and weather conditions.

During each maintenance visit the following specification shall be adhered to:

##### Removal of Litter

All litter and other debris shall be removed from all maintained areas, paying particular attention to the removal of broken bottles, glass, tins, sharp objects, and other items likely to be hazardous to members of the public.

##### Grass Cutting

All maintained grass areas shall be mown using machinery appropriate to the task. This shall generally be carried out two-weekly intervals in order to maintain the grass sward in good condition to an acceptable height. All grass edges shall be kept neat and tidy. All obstacles shall be trimmed shall not be used around the base of staked trees.

Frequency of cutting will remain flexible and shall be adjusted to suit weather conditions and growth rates as appropriate.

Operations will not be carried out where ground conditions prevent the use of machinery without damage to the ground surface. Where grass cutting is suspended due to inclement weather additional maintenance visits shall be carried out as soon as conditions permit.



Frequency of grass cutting may be reduced during periods of low rainfall when growth rates are low.

Following cutting, all surrounding hard standing areas shall be swept clear of arisings.

### Shrub Bed Maintenance

On each maintenance visit all shrub beds shall be checked for weed growth. Where weed growth is apparent the beds shall be weeded, either by cultivation, by hand, or through the use of an appropriate translocated herbicide.

Shrubs shall be pruned, usually once per annum in the spring, but dependant on the species present, and in accordance with good horticultural practice. All arisings shall be removed from site.

During each visit any dead, dying or diseased shrubs shall be removed. Arrangements shall be made to carry out replacement planting in accordance with the original planting specification, but only during the planting season and when appropriate plant material is available.

### Structural Woodland Areas

During the first three growing seasons, or until canopy closure, all trees shall have an area 1 metre in diameter maintained free of weed growth by the application of an appropriate translocated or residual herbicide. This is in accordance with good forestry practice and is designed primarily to facilitate rapid establishment of new trees. In addition, any dead, dying or diseased trees shall be removed.

Arrangements shall be made to carry out replacement planting in accordance with the original planting specification, but only during the planting season and when appropriate plant materials available.

In addition, where woodlands are in high visibility areas, (e.g. main entrance, show house complex), vegetation between the trees shall be strimmed four times per annum during the first three growing seasons in order to control the growth of noxious weed species, such as thistle, docken, ragwort, and willow herb.

Following the third growing season or canopy closure, the level of weed control and strimming described above may be reduced.

All footpaths through or adjacent to structural woodland areas shall have a 2 metre wide strip either side strimmed four times per annum in order to prevent encroachment of vegetation onto the path.

Additionally, all fence lines shall have a 2 metre wide strip of vegetation controlled, either by strimming or the application of herbicide, as appropriate to the location.

All fences shall be checked and repairs carried out as necessary.

### Staked Trees

All staked trees shall be inspected during each maintenance visit. Any dead, dying or diseased trees shall be removed, and formative pruning to remove dead or damaged branches shall be carried out as necessary. Where trees are removed the ground shall be reinstated to match the surroundings.

At the beginning and end of each growing season all stakes and ties shall be checked and adjusted or removed as necessary.

Where staked trees are growing in maintained grass an area of 1 metre diameter shall be maintained in a weed free condition by the application of an appropriate translocated herbicide. Strimmers shall not be used around the base of staked trees.

### Specification Winter Maintenance Specification

The winter maintenance programme shall run from 1 November to 31 March in the following year, which dates may be adjusted by the Open Ground Proprietors (acting reasonably in order to take into account seasonal variations in the growing season) to another date not further than four weeks from 1 November or 31 March (as the case may be) each year, and declaring that in any event the winter maintenance programme shall always immediately follow and be immediately followed by the summer maintenance programme.

Maintenance visits shall generally take place at monthly intervals, dependant on site and weather conditions.

During each maintenance visit the following specifications shall be adhered to:

#### Removal of Litter

All litter and other debris shall be removed from all maintained areas, paying particular attention to the removal of broken bottles, glass, tin, sharp objects, and other items likely to be hazardous to members of the public.

#### Shrub Bed Maintenance

Shrub beds shall generally be forked over once during the maintenance period.

Where species dictate, pruning shall be carried out in accordance with good horticultural practice. All arisings shall be removed from site.

Any necessary replacement planting shall be carried out in accordance with the original planting specification.

#### Structural Woodland Areas

Any necessary replacement planting shall be carried out in accordance with the original planting specification. Application of residual herbicide may be made around the base of each tree where this is the preferred type of weed control.

#### Other Items

From time to time other maintenance items of a non-routine nature may be required. Such items shall normally be dealt with during the next scheduled maintenance visit, except where matters of health and safety are involved, in which case arrangements shall be made to deal with the situation as a matter of priority.

#### Long Term Maintenance Specification for Ancillary Items

##### Play Areas

All play areas to have litter and all other debris removed where appropriate.

The play area equipment to be regularly inspected and repaired as necessary to comply with the requirements of the legislation in force from time to time, and to replace the play area equipment when repair is no longer feasible.

##### SUDs

Pond/Wetland/Overflow Basins/Detention Basins - Removal of litter and all other debris/obstructions from area where appropriate and maintain workability of facility to Scottish Water requirements.

Filtration Trench/Swale - Removal of litter and all other debris/obstructions from area where appropriate and maintain workability of facility to Scottish Water requirements.

Culverts - Removal of litter and all other debris/obstructions from area where appropriate and maintain workability of facility to Scottish Water requirements.

Burn/Watercourse - Removal of litter and all other debris/obstructions from area where appropriate and maintain workability of facility to Scottish Water requirements.

##### Informal Whin Paths

All paths to have litter and other debris removed and inspected for any hazard trip and where appropriate apply addition whin to make up level.

##### Non Adopted Roads/Parking

All non adopted roads/designated car parking to be regularly inspected and appropriate repairs carried out where necessary.

##### Ditches

Maintain the ditches including that located to the East of the B800 by conducting regular inspections and clearing any build up of debris and, in addition, cutting back vegetation all in order to maintain a free flow in the ditch.

## Burden 2

Deed of Conditions, registered 21 Oct. 2016, by Walker Holdings (Scotland) Limited ("the Developer"), contains real burdens and servitudes &c. in the following terms:

CONSIDERING that we are constructing dwellinghouses on the Development Area and that we intend to dispose the dwellinghouses together with suitable rights of common property to various purchasers of the Development Area;

NOW THEREFORE we DO HEREBY PROVIDE as follows:

## 1 Definitions

1.1 For the purpose of interpreting this deed the following terms shall have the meanings opposite them:

"the Development Area" means the area edged brown on the cadastral map;

"Common Property" means (1) the Roads and (2) the Open Areas;

"Community" means the Development Area, community having the meaning assigned to it by section 26(2) of the 2003 Act;

"Community Burden" shall have the meaning assigned to it in accordance with section 25 of the 2003 Act;

"Path 1" means the area adjacent to Plot 1 hatched mauve on the said map, forming part of the Development Area;

"Path 2" means the area adjacent to Plots 4 and 5 tinted mauve on the said map, forming part of the Development Area;

"Managing Agents" means the managing agents appointed in terms of Condition 9 of this deed;

"Minerals" means coal, shale, limestone, marl, ironstone, clay, freestone, slate, marble and other stone and all other mines and minerals and fossils though not specifically listed within this definition;

"Open Areas" means the areas tinted pink on the said map including any boundary walls, fences and gates (so far as not forming part of a Plot) forming part and portion of the Development Area;

"Plot" means each of the plots or areas of ground upon which a dwellinghouse is constructed within the Development Area, including any car parking space or pro indiviso share therein conveyed in association with such a dwellinghouse;

"Proprietor(s)" means the proprietor for the time being of any of the Plots and his/her/their successors as proprietor(s) of such Plot and where two or more persons own the same plot, includes both or all of them;

"Proprietors' Meeting" means a meeting of Proprietors and/or their mandatories, constituted as provided for in Condition 5.16 of this deed;

"Retained Land" means any land within the Development Area which is for the time being retained by the Developer;

"Roads" means the roads, footpaths and cycle ways tinted brown on the said map and forming part and portion of the Development Area;

"Service Media" means all sewers, drains, attenuation ponds, cells and structures, filtration trenches, services, channels, pipes, wires, cables, aerials, ducting, valves and other conducting media, electricity, telephone, television, telecommunications and security cables (including shafts, vents, manholes, meters and connections) and plant and machinery associated with conducting media;

"Service Strips" means the areas tinted yellow on the said map;

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

## 2 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.

2.1.5 The word "maintenance" shall include repair, maintenance, restoration, renewal, upkeep, cleaning and painting and the words "maintain" and "maintaining" shall be construed accordingly.

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

## 3 Constitutive Deed

This deed is a constitutive deed creating real burdens within the meaning of sections 4 and 122(1) of the 2003 Act.

## 4 Community Burdens

The real burdens contained in Conditions 5 to 9, which apply to the whole of the Development Area as a Community, shall be and are hereby created real burdens enforceable as Community Burdens by the owners of all the Plots as units in the Community in terms of section 27 of the

2003 Act and are enforceable by the Proprietors of each Plot, including the Developer while the Developer retain the ownership of any Plot.

## 5 The Development Area

5.1 Each Proprietor shall use and occupy his Plot predominantly as a private dwellinghouse and shall not sub-divide it. No part of the Development Area shall be used for the carrying on therein of any trade or for the selling of any goods or wares of any sort. No external alterations may be made to any part of the Development Area including without prejudice to the foregoing generality, alterations of or to the doors or windows thereof. No business nameplate, board, card, sign, notice or advertising notice of any kind (other than a "For Sale" sign to be erected in the course of the marketing of any Plot) shall be affixed or displayed in, on or about any part of the Development Area. Each Plot so far as not occupied by buildings shall be used as ornamental or garden ground and for recreational activities normal in a private garden and shall be maintained in a neat and tidy condition and free from all rubbish, refuse and weeds. Save where provided by the Developer, no fencing or hedging shall be installed in the front gardens except with the Developer's prior written consent in the period until the sale of the last Plot, and thereafter the consent of a majority of Proprietors voting in person or by means of a mandatory at a Proprietors' Meeting. The Proprietors of any Plot will keep any hedge or hedging in or surrounding the Plot in a neat and tidy condition, and the said hedge or hedging shall not exceed six feet in height.

5.2 Each Proprietor shall be bound to maintain the external paintwork and wall rendering of the dwellinghouse or garage or other building erected or to be erected on his Plot in good condition; DECLARING, without prejudice to the foregoing generality, that while the Developer remains Proprietor of any Plot the wall rendering shall not be altered by the Proprietors without the Developer's prior written consent and thereafter the consent of a majority of Proprietors voting in person or by means of a mandatory at a Proprietors' Meeting. The Proprietors will be bound to adhere to a common colour scheme in respect of the exterior parts of the said buildings including without prejudice to the generality of the foregoing all woodwork, window frames, rhones, gutters and others.

5.3 Each of the Proprietors shall be bound to keep all buildings and others erected on their respective Plots, insured against loss or damage by fire, explosion, storm and tempest, (including lightning) and (in peacetime) aircraft and any articles dropped therefrom with an established insurance company, for the full rebuilding value thereof. In the event of the said buildings and others or any of them being destroyed or damaged by fire or other aforementioned risks, all sums to be received by the Proprietors in respect of such insurance shall only be expended in making good and restoring all loss or damage caused by such fire or other aforementioned risks to the said buildings and others, which shall, in any event, be restored or if necessary re-erected by the Proprietor(s) so as to be in all respects consistent with the provisions and obligations contained in this deed and all within one year from the date of destruction or damage.

5.4 No satellite television dish or equivalent apparatus shall be attached to the front elevation or the end gable forming part of a street frontage of any dwellinghouse, structure or garage or erected in the front garden ground of any Plot. The written approval of the Local Authority, if required by any law, statute or local byelaw shall be obtained to any such dish or apparatus within or on the Development Area.

5.5 Each Proprietor shall be prohibited from selling, letting or disposing of the garage or any parking space, car port, or lock-up pertaining to the Plot separately from the Plot or from using the garage or such parking space, car port, or lock-up for any purpose other than for the parking of a private car, motorcycle or light van or for general domestic storage.

5.6 No caravans, boats, trailers, or commercial vehicles are permitted to be parked within the Development Area. All vehicles apart from roadworthy and fully road taxed private motor cars or vans will be stored behind the front building line of the house in such a way as to minimise inconvenience to other Proprietors.

5.7 No poultry, ducks, pigeons, bees or other livestock shall be kept in, on or about the Development Area or the buildings thereon. The Proprietors shall each be entitled to keep dogs and/or cats but that only provided that such pets shall not prove a nuisance to other Proprietors, that all dogs are kept under control within the Development Area and that they are not, at any time, allowed to run unfettered within the Development Area or to foul any part of the Development Area. The Proprietors shall not be entitled to breed any animals including domestic pets, whether commercially or not.

5.8 The Plots and the buildings thereon shall not be occupied or used in any manner or form or for any purpose which may be an injury to the amenity of the neighbourhood or a nuisance to nearby Proprietors, tenants and others.

5.9 Each Proprietor shall be bound to take all necessary measures for the preservation of all trees and shrubs within his Plot and no trees or shrubs shall be removed without the Developer's prior written consent in the period until the sale of the last Plot, and thereafter the consent of a majority of the Proprietors voting in person or by means of a mandatory at a Proprietors' Meeting.

5.10 Each Proprietor shall be bound to uphold and maintain in all time coming and when necessary re-erect the dwellinghouse, garage, if any, and all or any other buildings erected or to be erected on his Plot. While the Developer remains Proprietor of any Plot, no Proprietor shall make any external alterations or additions to his dwellinghouse and others after the erection thereof, nor erect any additional buildings and others on any part of the Plot, nor make any internal alterations to any of such buildings and others which would affect or be likely to affect the external appearance thereof, without the prior submission to and approval, in writing, by the Developer, of plans and specifications of all such altered or additional buildings and others and thereafter with the consent of a majority of the Proprietors voting in person or by means of a mandatory at a Proprietors' Meeting.

5.11 Each Proprietor shall maintain and, when necessary, renew at his own expense, in all time coming, the boundary walls and/or fences bounding his Plot. No new boundary walls or fences shall be erected and no alterations or additions shall be made to the existing boundary walls and/or fences nor shall any new openings or gates be made therein except with the prior written consent of a majority of the Proprietors voting in person or by means of a mandatory at a Proprietors' Meeting and no trellis work, ornamental fencing, draughtboarding or other fencing shall be erected along or adjoining any of the boundaries in the Development Area without the like consent nor shall any of the boundary walls or fences be used as strengthening or support for such trellis work or fencing. All walls and/or fences forming the boundaries between adjoining Plots are or shall be erected as to one half of the breadth or thickness thereof on each of the



adjoining Plots and shall be maintained by the adjoining Proprietors jointly in all time coming except where specially provided otherwise in any disposition or other writ to be granted by us or our successors.

5.12 No Proprietor shall construct any buildings, walls, structures of any kind including extensions to dwellinghouses, or plant any trees, bushes or shrubs over the foul or surface water sewers within the Development Area nor shall any trees, bushes or shrubs be planted above the said sewers nor closer than two metres to the outside of the said sewers nor shall trees, bushes or shrubs be planted or permitted to be planted within such distance of the said sewers unless the minimum clearance between the fully grown root system and the outside of the said sewer shall be two metres.

5.13 The Proprietors shall be responsible for ensuring that their respective Plots and the buildings thereon are properly drained and for this purpose they shall maintain the necessary gutters, downpipes, branch drains and connections for the removal of foul and surface water to the common or public sewers and repair, renew and cleanse the said gutters and others as may be necessary from time to time to the satisfaction of the Local Authority; DECLARING that where any gutter, downpipe, drain (or any part thereof) or connection is common to two or more of the Plots the expense of repairing renewing and cleansing the same shall be shared equally by the Proprietors using such common gutters and others.

5.14 The Proprietors will be bound to maintain the water supply pipes and connections leading to their respective Plots from the water main all to the satisfaction of the local water authority and where the said water supply pipes and connections leading from the water main are common to two or more Plots all costs including the cost of repairing and renewing the same shall be shared equally by the Proprietors using such common pipes and connections.

5.15 Where the Roads have been constructed and are not bounded by a footpath, no buildings or erections, trees or shrubs will be permitted within two metres of such part of the Roads.

5.16 It shall be within the power of (a) the Developer until the sale of the last Plot; or (b) following the sale of the last Plot, (i) the Managing Agents or (ii) the Proprietors of any eight Plots, to call a meeting of all the Proprietors to be held at such reasonably convenient time and place as the convenor of the said meeting may determine. The said convenor shall give at least twenty one days notice in writing to the other Proprietors of the time and place of the said meeting. At any meeting so convened, any of the Proprietors may be represented by a mandatory. The Proprietors of any twenty or more of the Plots or the mandatory or mandatories present of such Proprietors shall be a quorum. The Proprietors present at such meeting or their mandatories shall be entitled to one vote for each Plot owned by them or their principal but only with regard to decisions in which they have an interest hereunder; DECLARING that in the event of any Plot being owned by two or more persons only one of such owners shall be entitled to vote and in no case may more than one vote be allowed in respect of a single Plot.

## 6 Service Strips

6.1 Each Proprietor shall have a one seventy fifth (1/75) pro indiviso right of common property in and to the Service Strips.



6.2 In relation to those Service Strips that are not ex adverso any Plot (such Service Strips that are not ex adverso any Plot being referred to as "Common Service Strips"), the Proprietors shall be liable jointly and severally with each other to maintain the area of ground above the Common Service Strips in a neat and tidy condition under grass and open and unbuilt upon in all time coming (except insofar as there shall have been constructed over the service strip, buildings, a Path or a garden path constructed or permitted to be constructed by the Developer) and otherwise all to the satisfaction of the Local Authority, and each Plot shall be burdened with an equal share of the expense of such maintenance.

6.3 Each Proprietor shall be bound to maintain the area of ground above any such Service Strip ex adverso their Plot in a neat and tidy condition under grass and open and unbuilt upon in all time coming (except insofar as there shall have been constructed over the service strip, buildings, a Path or a garden path constructed or permitted to be constructed by us) and otherwise all to the satisfaction of the Local Authority.

6.4 In the event of any Proprietor causing damage to any Service Media contained in a Service Strip, such Proprietor shall be bound to make good such damage forthwith.

6.5 Each Proprietor shall be bound to ensure that the demarcation kerbs relating to the Service Strips remain visible at all times and otherwise in a condition satisfactory to the Local Authority. Demarcation kerbs may not be moved. Further, where the Local Authority determine visibility splays within the Development Area, no wall, fence or other structure or any shrubs, trees or other obstructions shall be erected or permitted to grow to a height more than 600 millimetres high in and upon the area of ground forming the visibility splay or splays or such other height as the Local Authority Highways Department (or successor body) may require.

## 7 Common Property and Common Maintenance

7.1 Each Proprietor shall have a one seventy fifth (1/75) pro indiviso right of common property in and to the Common Property.

7.2 The Proprietors shall be liable jointly and severally with each other for the maintenance, repair and renewal of the Common Property and each Plot shall be burdened with an equal share of the expense of such maintenance, repair and renewal of the Common Property.

7.3 It shall be competent at a Proprietors' Meeting, by a majority of the votes of those present:

7.3.1 to order to be executed any common or mutual operations, maintenance and repairs, etc to any Common Property and the Common Service Strips;

7.3.2 to make any regulations in conformity with this Deed which may be considered necessary with regard to the preservation, maintenance, use and enjoyment of any Common Property and the Common Service Strips;

7.3.3 to delegate to the Managing Agents full right, power and authority to take charge of all matters pertaining to the maintenance, planting, horticulture and preservation of any Common Property and the Common Service Strips and the employment of labour thereanent;

7.3.4 to instruct the collection by the Managing Agents of the cost of maintaining the Common Property and the Common Service Strips, and the accounting by the Managing Agents for their intromissions therewith;

7.3.5 to determine the amount of the Managing Agents' remuneration and the annual maintenance charge relating to the maintenance of the Common Property and the Common Service Strips from time to time;

7.3.6 subject to terms of Condition 9.1 to remove the Managing Agents and to appoint another in their place; and

7.3.7 to deal with any other matter which the conveners of the meeting shall consider necessary or desirable for the benefit of the Proprietors or the Development Area or any part thereof.

## 8 Appointment of Contractors

Each Proprietor will be bound to concur in the appointment of maintenance and/or gardening/landscaping contractors through the Managing Agents for the regular repair and maintenance of the Common Property and the Common Service Strips.

## 9 Managing Agents

9.1 The Developer shall appoint the first Managing Agents who shall remain as Managing Agents for a period of two years after the Developer has sold the last of the Plots. Thereafter the Proprietors shall, subject to the provisions of this Condition 9.1 be bound to reappoint Managing Agents or to appoint new Managing Agents for such period as they shall determine and to have Managing Agents at all times. The Managing Agents appointed as aforesaid shall be entitled to charge their usual professional remuneration for their services to which the Proprietor of each Plot shall be bound to contribute equally. The Managing Agents unless otherwise determined at Proprietors' Meeting shall have power during their appointment:

9.1.1 to order and arrange to be executed any common or mutual operations, maintenance and repairs, planting etc of the Common Property and the Common Service Strips as they in their judgement shall consider necessary to implement their obligations and duties in terms hereof including the employment of labour in connection therewith;

9.1.2 to exercise the whole rights and powers which may be competently exercised by a majority of those present at any quorate meeting of Proprietors provided for in this deed; and

9.1.3 to collect annually, in advance, from each Proprietor:

9.1.3.1 the share of the costs as incurred by the Managing Agents in maintaining, repairing and where necessary renewing the Common Property and the Common Service Strips;

9.1.3.2 the share of any other remunerations, outlays, charges; expenses and fees for work done or undertaken and services rendered and of any other sums for which the Proprietors or any of them may become liable in terms of or in furtherance of the provisions herein contained or the provisions of the Dispositions of Plots granted by the Developer.

9.2 The Managing Agents shall be entitled to make payment of the said remunerations, outlays, charges, expenses, fees or other sums payable in respect of the Common Property and the Common Service Strips to whomsoever is entitled to receive payment therefor. Any balance of the charges not expended in any year shall be carried forward and applied for the foregoing purposes in ensuing years. In the event of any of the Proprietors failing to make payment of their respective proportion of said remunerations, outlays, charges, expenses, fees, costs and other sums to which they may become respectively liable in terms hereof within one month after payment of the same is demanded by the Managing Agents, the Managing Agents shall (without prejudice to any other rights and remedies of the other Proprietors) be entitled to sue for and recover the same in their own name from the Proprietor or Proprietors so failing together with all expenses incurred in connection therewith and in the event of the Managing Agents being unable to recover from any Proprietor or Proprietors their respective proportion of the said remunerations, outlays, charges, expenses, fees, costs or other sums then such sums as aforesaid and any reasonable legal fees and expenses incurred in trying to recover same shall become a debt due by the other Proprietors. It is declared that since the Managing Agents will require to advance the sums necessary to meet costs, charges and others in terms of this Deed, each of the Proprietors shall deposit in the event of the first sale of a Plot with the Developer at or prior to entry for transmission to the Managing Agents and in the event of the subsequent sale with the Managing Agents within one month of their entry to a Plot the sum fixed by the Managing Agents to form a float from which said costs may be met. The initial sum to be paid on the first sale of a Plot by the Developer will be FIFTY POUNDS STERLING (£50) STERLING or such greater sum as the Developer or the Managing Agents deem necessary. The said float shall be held by the Developer pending appointment of the Managing Agents and thereafter by the Managing Agents in Trust for behoof of the Proprietors within the Development Area for the foresaid purposes. In the event of a Proprietor selling any Plot in their ownership such Proprietor shall be entitled to recover the sum or sums so deposited under deduction of any proportion of the said costs as aforesaid due in respect of their Plot always provided that the person to whom such Plot is sold has deposited with the Developer or Managing Agents the deposit to be paid by such purchaser determined by the Developer or Managing Agents as aforesaid. For the avoidance of doubt no interest shall be payable to any Proprietor in relation to such deposit or float or any part thereof which may be refunded as aforesaid.

9.3 In addition, in the event of the carrying out of unforeseen works (whether as a result of an emergency or otherwise) instructed by the Managing Agents in terms of the provisions hereof, the Managing Agents shall be entitled to require the Proprietors to pay in addition to the said annual instalments, the cost of carrying out such unforeseen works.

9.4 Where necessary or appropriate the Managing Agents shall have authority to require that the Proprietors to make payment in advance of the cost of any major works.

9.5 The decision of the Managing Agents with regard to the cost of maintaining and repairing the Common Property and the Common Service Strips shall be final except in the case of manifest error.

## 10 Path Property

10.1 Each Proprietor of Plot 1 and Plot 2 shall have a one half (1/2) pro indiviso right of common property in and to Path 1. Each Proprietor of Plot 4 and Plot 5 shall have a one half (1/2) pro indiviso right of common property in and to Path 2.

10.2 The following real burdens, contained in this Condition 10.2, which apply to (1) Plots 1 and 2 as a Community and (2) Plots 4 and 5 as a Community, shall be and are hereby created real burdens enforceable as Community Burdens by the owners of both such Plots as units in the Community in terms of section 27 of the 2003 Act and are enforceable by the Proprietors of each such Plot, including the Developer while the Developer retain the ownership of any such Plot.

10.2.1 The Proprietors of Plots 1 and 2 shall be liable jointly and severally with each other for the maintenance, repair and renewal of Path 1 and each such Plot shall be burdened with an equal share of the expense of such maintenance, repair and renewal thereof.

10.2.2 The Proprietors of Plots 4 and 5 shall be liable jointly and severally with each other for the maintenance, repair and renewal of Path 2 and each such Plot shall be burdened with an equal share of the expense of such maintenance, repair and renewal thereof.

## 11 Servitudes

The servitudes in this Condition 11 shall have effect so far as individual Benefited Properties and Burdened Properties or parts thereof are concerned on the registration of a separate title to such Benefited Property and Burdened Property or part thereof in terms of Section 75(2) of the 2003 Act.

### 11.1 In this Condition 11.1:

"Benefited Property" means each Plot; and

"Burdened Property" means each other Plot.

11.1.1 Each Proprietor shall have a servitude right of access over the subjects within the Development Area adjoining their Plot(s), for the purpose of maintaining, repairing and renewing the buildings, boundary walls and fences (including the cleaning of windows) constructed upon a Plot.

11.1.2 Each Proprietor shall have a servitude right to use all or any cables, wires, drains, sewers, water supply and other pipes serving their Plot.

11.1.3 Each Proprietor shall have a servitude right of access to all or any cables, wires, drains, sewers, water supply and other pipes serving their Plot when required for the purpose of inspecting, maintaining, renewing, cleansing and emptying the same.

### 11.2 In this Condition 11.2:

"the Burdened Property" means the Common Property and Service Strips; and

"the Benefited Property" means every Plot.

11.2.1 Each Proprietor shall have a servitude right of access for pedestrian and vehicular traffic over the Roads for all necessary purposes.

11.2.2 Each Proprietor shall where appropriate have a servitude right of pedestrian (and, if appropriate, vehicular) access to and egress from their respective Plots over the service strip ex adverso their Plot, for all necessary purposes.

11.2.3 Each Proprietor shall have a servitude right to use all or any cables, wires, drains, sewers, water supply and other pipes serving their Plot.

11.2.4 Each Proprietor shall have a servitude right of access to all or any cables, wires, drains, sewers, water supply and other pipes serving their Plot when required for the purpose of inspecting, maintaining, renewing, cleansing and emptying the same.

11.3 In this Condition 11.3:

"the Burdened Property" means each Plot and the Common Property, and

"the Benefited Property" means the Retained Land.

11.3.1 A servitude right of access over any part of the Burdened Property for the purpose of building and completing any dwellinghouse, garage, car parking space or other buildings.

11.3.2 A servitude right of access over any part of the Burdened Property for the purpose of planting trees, shrubs and bushes.

11.3.3 A servitude right of access over any part of the Burdened Property for the purpose of carrying out any work of whatever nature which the Developer, acting reasonably considers is required in connection with the erection of a housing development.

11.3.4 A servitude right of access over any part of the Burdened Property for the purpose of maintaining, renewing or repairing the gables of any unsold Plots.

11.3.5 A servitude right of access over any part of the Burdened Property for the purpose of erecting walls, fences, retaining walls or kerbing.

11.3.6 A servitude right of access over any part of the Burdened Property for the purpose of planting such trees as are necessary for the amenity of the Development Area.

11.3.7 A servitude right of access over any part of the Burdened Property for the purpose of erecting scaffolding on or intruding into the air space over each Plot for the purpose of construction and maintenance of houses, garages, car parking spaces and other buildings erected or to be erected by the Developer on adjoining Plots.

11.4 In this Condition 11.4:

"the Benefited Property" means each Plot that contains any building or erection that is linked or keyed into or derives support from any part of any building on any other Plot; and

"the Burdened Property" means such other Plot.

11.4.1 Each Benefited Property has a servitude right of support, if necessary, to that part of the building or erection on the Benefited Property which derives support from any part of the buildings or erections on the Burdened Property.

11.4.2 Each Benefited Property has a servitude right of access over the Burdened Property for the purpose of maintaining that part of the Benefited Property that is linked or keyed into or derives support from the Burdened Property.

11.5 In this Condition 11.5:

"Benefited Property" means each Plot containing a building or erection that overhangs any part of (a) the Development Area or (b) any neighbouring Plot; and

"Burdened Property" means either or both of (a) the Development Area and (b) any neighbouring Plot, as the case may be.

11.5.1 Each Benefited Property has a servitude right to occupy that part of the air space forming part of the Burdened Property occupied by that part of the building or erection on the Benefited Property that overhangs the Burdened Property.

11.6 In this Condition 11.6:

"Burdened Property" means the area tinted blue on the said map and forming part of Plot 8; and

"Benefited Property" means every Plot other than Plot 8.

11.6.1 Each Benefited Property shall have a servitude right of pedestrian access (with equipment) over the Burdened Property for the purpose of maintaining, replacing and renewing the Open Area tinted pink on the said map ex adverso Plots 8 and 9.

## 12 Servitude Conditions

The benefited owners in exercising any of the rights contained in Condition 11 shall:

12.1 cause the minimum interference practicable;

12.2 not prejudice the prospects of adoption for maintenance of the Roads and Service Media constructed or to be constructed upon the relevant Burdened Property;

12.3 where connection to Service Media is permitted, not prejudice the capacity of the Service Media to serve the Development Area;

12.4 ensure that all physical damage thereby occasioned is made good to the reasonable satisfaction of the relevant burdened owner as soon as is reasonably practicable;

12.5 act reasonably at all times; and

12.6 where works are contemplated, give reasonable prior written notice (except in emergency) to the relevant burdened owners and respect the reasonable concerns and specific reasonable



requirements of the relevant burdened owners.

### 13 Reservations

13.1 The following reserved rights are imposed on each of the Plots and the Common Property for the benefit of the Developer and any person or persons authorised by them:

13.1.1 there shall, subject always to the Coal Act 1938, Coal Industry Nationalisation Act 1946, the Coal Industry Act 1994 and subsequent relevant enactments, be reserved to the Developer, the whole Minerals within and under the Development Area, with full power and liberty to the owners of the Minerals but without entering on the surface of the Development Area to search for, work, win, raise, calcine, manufacture and carry away the Minerals and others and do everything necessary for all or any of these purposes; DECLARING that the owners of the Minerals shall be bound to make payment to the Proprietors of all damage which may be occasioned to the surface of the Development Area or the buildings erected or to be erected on the Development Area as such damage shall, failing agreement, be ascertained by an arbiter to be appointed in terms of Condition 15 of this deed.

### 14 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 2003 Act in respect of the real burdens and servitudes hereby created for a period of five years after the registration of this deed in the Land Register of Scotland.

### 15 Arbitration

Any dispute or difference of any kind which may arise between the Proprietors, us and/or our successors in relation to any matter under, arising out of or in any way connected with this deed may be referred to an Arbiter for determination and the decision of the Arbiter shall be final and binding on such parties. The Arbiter shall be entitled to require such evidence and take such expert advice as he thinks fit and shall give the parties a reasonable opportunity to make representations and submissions and shall permit each party to make submissions on the representations of the others. The costs and expenses of the Arbiter associated with such determination shall be determined by the Arbiter but the parties will bear their own costs with respect to the submission of the matter to and the determination of the issue by the Arbiter. The Arbiter shall act as an Arbiter and shall be such independent professional person as the parties concerned in the matter at dispute shall agree is appropriate to be appointed in order to determine such dispute and failing agreement shall be nominated on the application of an interested party by the President of the Law Society of Scotland.

## Burden 3

Deed of Servitude and Real Burdens by Walker Holdings (Scotland) Limited to Walker Homes (Scotland) Limited, CALA Ventures Limited and BDW Trading Limited, registered 7 Dec. 2016, grants servitude rights and real burdens in the following terms:

### 1. Definitions and Interpretation

## 1.1 Definitions

In this Deed:

"Benefited Property" means those areas of land shown edged mauve on the cadastral map, which subjects form part and portion of the subjects registered under Title Number WLN37703;

"Benefited Owner" means the said Walker Holdings (Scotland) Limited, the said CALA Ventures Limited and the said BDW Trading Limited and their successors from time to time as heritable proprietors of the Benefited Property;

"Burdened Property" means the subjects registered under Title Number WLN44507, of which the subjects in this Title form part;

"Burdened Owner" means the said Walker Holdings (Scotland) Limited and its successors from time to time as heritable proprietors of the Burdened Property;

"Pipe" means a surface water sewage or drainage pipe and includes any manholes, ventilating shafts, stormwater overflow pipes, outfall pipes or other accessories belonging to a pipe, unless the context otherwise requires;

"Real Burdens" means the Real Burdens set out in Part 3;

"Servitude Area" means those areas of land shown hatched red on the cadastral map, which subjects form part of the Burdened Property;

"Servitude Condition(s)" means the conditions under which the Servitude Right(s) are to be exercised set out in Part 2; and

"Servitude Right(s)" means the Servitude Right(s) set out in Part 1.

## 1.2 Interpretation

Save to the extent that the context or the express provisions of this Deed otherwise requires, in this Deed:

1.2.1 words importing any gender include all other genders;

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

1.2.3 where at any one time there are two or more persons included in the expression "Benefited Owner" or "Burdened Owner" obligations contained in this Deed which are expressed to be made by the party denoted by the expression in question are binding jointly and severally on them and their respective executors and representatives whomsoever, without the necessity of discussing them in their order;

1.2.4 words importing individuals include legal persons and vice versa;



1.2.5 references to this Deed or to any other document are to be construed as reference to this Deed or to that other document as modified, amended, varied, supplemented, assigned, novated or replaced from time to time;

1.2.6 any reference to a Clause or Part is to the relevant Clause or Part of or to this Deed;

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

1.2.8 any rights reserved or granted to a party are exercisable by the tenants, agents, employees, workmen and others authorised by them from time to time.

### 1.3 Headings

The headings in this Deed are included for convenience only and are to be ignored in construing this Deed.

## 2. Grant of Servitude and Real Burdens

The Burdened Owner (1) grants the Servitude Rights but subject always to the Servitude Conditions and (2) grants the Real Burdens.

## 3. Date of Commencement of Servitude

The Servitude Rights and Real Burdens granted by this Deed will be exercisable with effect from the last date of execution hereof, being 5 December 2016.

## 4. Consent to Scottish Water Taking Over the Pipes in the Servitude Area

The Burdened Owner consents to the vesting of the Pipes in the Servitude Area in Scottish Water, established under the Water Industry (Scotland) Act 2002 and having its principal office at Castle House, 6 Castle Drive, Carnegie Campus, Dunfermline, Fife, KY11 8GG, as a public sewer under the relevant statutory powers and for the future operation and maintenance of it as part of the public sewerage system, all as subject to the statutory rights and duties of the said Scottish Water.

## 5. Arbitration

Any dispute arising under this Deed of Servitude and Real Burdens shall be determined, in default of agreement, by a single arbiter to be appointed by the parties hereto or, failing agreement, to be appointed on the application of any of the parties (after notice in writing to the other parties) by the Chairman of the Scottish Branch of the Royal Institution of Chartered Surveyors and the provisions of the Arbitration (Scotland) Act 2010 and any statutory modification or re-enactment thereof for the time being in force shall apply to any such reference or determination.

## 6. Warrandice

The Burdened Owner grants warrandice.

7. No application may be made to the Lands Tribunal for Scotland under section 90(1)(a)(i) of the Title Conditions (Scotland) Act 2003 in respect of the Servitudes set out in this Deed for a period of five years after the registration of this Deed in the Land Register of Scotland

## Part 1

### The Servitude Rights

The following Servitude Rights are imposed on the Burdened Property in favour of the Benefited Property:

1. A servitude right of access and egress at all times for pedestrians and vehicles (including heavy vehicles) at any time over and across the roads, paths and open spaces within the Burdened Property for the purpose of exercising the servitude rights specified in this Part 1 including for the avoidance of doubt the transportation of materials, machinery and equipment and with contractors and others authorised by them from time to time.
2. A servitude right to lay and construct a Pipe in, through, on or under the Servitude Area and to alter, enlarge, use, operate, have, retain, inspect, reconstruct, replace, relay, alter, enlarge, upgrade, renew, maintain, cleanse, repair, remove, render unusable and manage the Pipe built in, through, under, over or upon the Servitude Area together with the right of having and enjoying the free flow and passage of sewerage and to increase or decrease such flow.
3. A servitude right to erect and maintain on or near the Servitude Area any necessary markers indicating the Servitude Area and the position of the Pipe and the drainage of water, on, under or over the Burdened Property provided the same are not erected in such a position as to unreasonably impede the use of the Burdened Property.
4. A servitude right to fence off such part of the Servitude Area from the adjoining and adjacent land as shall be necessary and for so long as may be necessary during the exercise of the rights.
5. A servitude right to lop, cut or remove the whole or any part of any trees, shrubs, bushes, other plants and vegetation or remove any building obstructing or causing interference or likely to obstruct or cause interference to the Pipe and/or the Servitude Area all without any liability and/or damages attaching to the Benefited Owner.

## Part II: Conditions on servitudes affecting the Retained Property

The following Servitude Conditions are imposed on the Benefited Property for the benefit of the Burdened Property; the Benefited Owner will:

1. make good on demand all damage caused to the Servitude Area and Burdened Property by reason of the exercise of the Servitude Rights by the Benefited Owner or its tenants, agents, employees, contractors, sub-contractors and others authorised by them from time to time, to the reasonable satisfaction of the Burdened Owner;

2. procure that the Servitude Rights are exercised so as to cause the minimum disturbance, nuisance, or annoyance reasonably practicable to the Burdened Owner and their tenants or occupiers, and all other adjoining or neighbouring Owners, tenants or occupiers.

### Part III: Real Burdens affecting the Burdened Property

The following real burdens are imposed on the Burdened Property in favour of the Benefited Property; the Burdened Owner shall not:

1. erect any building or other erection or carry out any development or construction work of any kind whether permanent or temporary (except roads which are to be publicly adopted and boundary or other fences which are easily removable) or plant, grow, cultivate or permit to grow any trees, shrubs, bushes or other plants and vegetation (1) over the Pipe or within a lateral distance of 1.2 metres measuring from the centre line thereof or (2) which otherwise is likely adversely to affect the Pipe or the Benefited Owner's access thereto and to the Servitude Area without the prior written consent of the Benefited Owner;

2. alter the existing ground levels in the Servitude Area or obstruct in any way the Benefited Owner's access to same or to the Pipe without the prior written consent of the Benefited Owner;

3. use or permit or knowingly suffer to be used the Servitude Area or any adjoining or adjacent land in the Burdened Property for any purpose that may:

3.1 endanger, injure or damage any infrastructure vested in Scottish Water or render access thereto more difficult or expensive;

3.2 adversely affect the quality of water, sewerage or other matter in the Pipe or the free flow and passage thereof or means of communication along or through the Pipe;

4. withdraw support from the Pipe or from the Servitude Area;

5. undertake or cause or permit to be undertaken any piling or percussive works within the Servitude Area; and

6. construct or lay or cause or permit construction or laying of any other pipe, duct or cable above the Pipe.

Note: The said Servitude Area hatched red on the cadastral map has, in so far as affecting shared plot title WLN51610, been hatched red on the cadastral map for cadastral unit WLN51610.

## Burden 4

Supplementary Deed of Conditions, registered 11 Apr 2017, by Walker Group (Scotland) Limited ("the Developer"), amends the terms in the Deed of Conditions in Entry 2 as following:

### 1 Definitions

1.1 For the purpose of interpreting this deed the following terms shall have the meanings opposite them:

"Additional Open Area" means the area shown hatched brown on the cadastral map;

"Community" means the Plots in the Development Area under

exception of Plots 42, 43, 44, 45 and 48 shown on the Development Plan Approved by the Keeper for cadastral unit WLN44507 dated Twenty third March Two thousand and seventeen, community having the meaning assigned to it by section 26(2) of the 2003 Act;

"Community Burden" shall have the meaning assigned to it in accordance with section 25 of the 2003 Act;

"Proprietor(s)" means the proprietor for the time being of any of the Plots within the Community and his/her/their successors as proprietor(s) of such Plot and where two or more persons own the same plot, includes both or all of them;

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

## 2 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.

2.1.5 The word "maintenance" shall include repair, maintenance, restoration, renewal, upkeep, cleaning and painting and the words "maintain" and "maintaining" shall be construed accordingly.

2.1.6 Save where otherwise defined herein, words and terms defined in the Deed of Conditions shall have the like meaning in this Supplementary Deed of Conditions.

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

## 3 Constitutive Deed

This deed is a constitutive deed creating real burdens within the meaning of sections 4 and 122(1) of the 2003 Act.

#### 4 Community Burdens

The real burdens contained in Condition 5, which apply to the whole Community, shall be and are hereby created real burdens enforceable as Community Burdens by the owners of all the Plots as units in the Community in terms of section 27 of the 2003 Act and are enforceable by the Proprietors of each such Plot, including the Developer while the Developer retain the ownership of any such Plot.

#### 5 Ownership, Maintenance and Management of the Additional Open Area

5.1 Each Proprietor shall have a one seventieth (1/70th) pro indiviso right of common property in and to the Additional Open Area.

5.2 The Proprietors shall be liable jointly and severally with each other for the maintenance, repair and renewal of the Additional Open Area and each Plot within the Community shall be burdened with an equal share of the expense of such maintenance, repair and renewal of the Additional Open Area.

5.3 The Proprietors shall appoint the same Managing Agent to manage the Additional Open Area as is appointed by the Proprietors as defined in the Deed of Conditions to Manage the Common Property.

5.4 Conditions 7.3, 8 and 9 contained in the Deed of Conditions shall apply mutatis mutandis to the management of the Additional Open Area as they apply to the management of the Common Property save that no float shall be paid by the Proprietors in the Community in addition to that which is required by Condition 9.2 of the Deed of Conditions.

#### 6 Servitudes

The servitudes in this Condition 6 shall have effect so far as individual Benefited Properties and Burdened Properties or parts thereof are concerned on the registration of a separate title to such Benefited Property and Burdened Property or part thereof in terms of Section 75(2) of the 2003 Act.

6.1 In this Condition 6.1:

"Benefited Property" means Plot 6; and

"Burdened Property" means the Additional Open Area.

6.1.1 The Proprietor of the Benefited Property shall have a servitude right of access over the Additional Open Area for the purpose of maintaining, repairing and renewing the buildings, boundary walls and fences (including the cleaning of windows) constructed upon the Benefited Property.

6.1.2 The Proprietor of the Benefited Property shall have a servitude right to use all or any cables, wires, drains, sewers, water supply and other pipes in the Burdened Property serving the Benefited Property.

6.1.3 The Proprietor of the Benefited Property shall have a servitude right of access to all or any cables, wires, drains, sewers, water supply and other pipes serving their Plot when required for the purpose of inspecting, maintaining, renewing, cleansing and emptying the same.

6.2 In this Condition 6.2:

"the Burdened Property" means the Additional Open Ground, and

"the Benefited Property" means the Retained Land.

6.2.1 A servitude right of access over any part of the Burdened Property for the purpose of building and completing any dwellinghouse, garage, car parking space or other buildings.

6.2.2 A servitude right of access over any part of the Burdened Property for the purpose of planting trees, shrubs and bushes.

6.2.3 A servitude right of access over any part of the Burdened Property for the purpose of carrying out any work of whatever nature which the Developer, acting reasonably considers is required in connection with the erection of a housing development.

6.2.4 A servitude right of access over any part of the Burdened Property for the purpose of maintaining, renewing or repairing the gables of any unsold Plots.

6.2.5 A servitude right of access over any part of the Burdened Property for the purpose of erecting walls, fences, retaining walls or kerbing.

6.2.6 A servitude right of access over any part of the Burdened Property for the purpose of planting such trees as are necessary for the amenity of the Development Area.

6.2.7 A servitude right of access over any part of the Burdened Property for the purpose of erecting scaffolding on or intruding into the air space over each Plot for the purpose of construction and maintenance of houses, garages, car parking spaces and other buildings erected or to be erected by the Developer on adjoining Plots.

## 7 Servitude Conditions

The benefited owners in exercising any of the rights contained in Condition 6 shall:

7.1 cause the minimum interference practicable;

7.2 not prejudice the prospects of adoption for maintenance of the Roads and Service Media constructed or to be constructed upon the relevant Burdened Property;

7.3 where connection to Service Media is permitted, not prejudice the capacity of the Service Media to serve the Development Area;

7.4 ensure that all physical damage thereby occasioned is made good to the reasonable satisfaction of the relevant burdened owner as soon as is reasonably practicable;

7.5 act reasonably at all times; and

7.6 where works are contemplated, give reasonable prior written notice (except in emergency) to the relevant burdened owners and respect the reasonable concerns and specific reasonable requirements of the relevant burdened owners.

## 8 Reservations

8.1 The following reserved rights are imposed on each of the Plots and the Common Property for the benefit of the Developer and any person or persons authorised by them:

8.1.1 there shall, subject always to the Coal Act 1938, Coal Industry Nationalisation Act 1946, the Coal Industry Act 1994 and subsequent relevant enactments, be reserved to the Developer, the whole Minerals within and under the Development Area, with full power and liberty to the owners of the Minerals but without entering on the surface of the Development Area to search for, work, win, raise, calcine, manufacture and carry away the Minerals and others and do everything necessary for all or any of these purposes; DECLARING that the owners of the Minerals shall be bound to make payment to the Proprietors of all damage which may be occasioned to the surface of the Development Area or the buildings erected or to be erected on the Development Area as such damage shall, failing agreement, be ascertained by an arbiter to be appointed in terms of Condition 10 of this deed.

## 9 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 2003 Act in respect of the real burdens and servitudes hereby created for a period of five years after the registration of this deed in the Land Register of Scotland.

## 10 Arbitration

Any dispute or difference of any kind which may arise between the Proprietors, us and/or our successors in relation to any matter under, arising out of or in any way connected with this deed may be referred to an Arbiter for determination and the decision of the Arbiter shall be final and binding on such parties. The Arbiter shall be entitled to require such evidence and take such expert advice as he thinks fit and shall give the parties a reasonable opportunity to make representations and submissions and shall permit each party to make submissions on the representations of the others. The costs and expenses of the Arbiter associated with such determination shall be determined by the Arbiter but the parties will bear their own costs with respect to the submission of the matter to and the determination of the issue by the Arbiter. The Arbiter shall act as an Arbiter and shall be such independent professional person as the parties concerned in the matter at dispute shall agree is appropriate to be appointed in order to determine such dispute and failing agreement shall be nominated on the application of an interested party by the President of the Law Society of Scotland.

## Burden 5



## Explanatory Note:

The descriptions of the burdened and benefited properties in any deed registered in terms of sections 4 and 75 of the Title Conditions (Scotland) Act 2003 in this Title Sheet are correct as at the stated date of registration of such deed.

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<div>LAND REGISTER OF SCOTLAND</div>	Officer's ID / Date	TITLE NUMBER
	6820 30/4/2019	<b>WLN56338</b>
<div>ORDNANCE SURVEY NATIONAL GRID REFERENCE</div>	<div>140m</div>	
	<div>Survey Scale</div> <div>1/2500</div>	

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