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## Title Information: MID162754

### Search summary

Date/Time of search	19-07-2019 16:01:32
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Transaction number	SCO-03108028
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User Reference	
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# Section A

# MID162754

## Property

Date of first registration	11-08-2015
Date title sheet updated to	11-08-2015
Date land certificate updated to	11-08-2015
Hectarage Code	0
Real Right	OWNERSHIP
Map Reference	
Cadastral Unit	MID162754
Sasine Search	<a href="#">42987</a>
Property address	40 GARVALD STREET, EDINBURGH EH166FB

Description	Subjects part of cadastral unit MID160287 edged red on the cadastral map 40 GARVALD STREET, EDINBURGH EH16 6FB being the ground floor dwellinghouse tinted pink on the supplementary data to the title sheet 1 of the block 40, 42 and 44 Garvald Street and 2 Gracemount House Drive, Edinburgh with the garden ground and bike locker hatched blue and tinted mauve, respectively, on the supplementary data to the title sheet 1; together with (First) (One) a pro indiviso right in common with the proprietors of the said block to the external common areas at ground floor level tinted yellow on the supplementary data to the title sheet 1 (Two) an equal pro indiviso share with the other proprietors of the said block to the bin stores tinted brown on the supplementary data to the title sheet 1 and (Three) a pro indiviso right in common with said block to the internal common areas tinted blue on the supplementary data to the title sheet 1; (Second) all rights sole, common and mutual pertaining to the said subjects specified and contained in the Deed of Conditions in Entry 1 of the Burdens Section; and (Third) the subsisting rights to real burdens specified in the Schedule below.
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Notes	1. The description of the burdened property in each entry of the Schedule of Particulars relative to Subsisting Rights to Real Burdens above should be read in conjunction with the Explanatory Note in the Burdens Section.
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## 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 City of Edinburgh Council, recorded G.R.S (Midlothian) 23 Jan 2012, in Entry 1 of the Burdens Section.	Development at Gracemount, Edinburgh, outlined in red on the supplementary data to the title sheet 1.

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## Section B

**MID162754**

### Proprietorship

MARY LOUISE DIVER 50 Morendun Dykes Road, Edinburgh, EH17 8FY and MICHAEL DAVID DOWNIE 4 Lochend Avenue, Edinburgh, EH7 6DX equally between them.

Entry number	1
Date of registration	11-08-2015
Date of Entry	10-04-2015
Consideration	£148,000

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## Section C

**MID162754**

### Securities

<b>Entry number</b>	1
<b>Specification</b>	Standard Security by said MARY LOUISE DIVER and MICHAEL DAVID DOWNIE to NATIONWIDE BUILDING SOCIETY incorporated under the Building Societies Act 1986, Head Office Nationwide House, Pipers Way, Swindon SN38 1NW.
<b>Date of registration</b>	11-08-2015
<b>Notes</b>	1. The above Standard Security and the Standard Security in Entry 2 are affected by ranking provisions in the Ranking Agreement registered 11 Aug. 2015.
<b>Entry number</b>	2
<b>Specification</b>	Standard Security by said MARY LOUISE DIVER and MICHAEL DAVID DOWNIE to SCOTTISH MINISTERS.
<b>Date of registration</b>	11-08-2015
<b>Notes</b>	1. The above Standard Security and the Standard Security in Entry 1 are affected by ranking provisions in the Ranking Agreement registered 11 Aug. 2015.

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## Section D

**MID162754**

### Burdens

Number of Burdens: 1

#### **Burden 1**

Deed of Conditions, recorded G.R.S. (Midlothian) 23 Jan 2012, by The City of Edinburgh Council, Proprietor of the Development as outlined in red on the supplementary data to the title sheet-2 (hereinafter referred to as "the Plan"), of which the subjects in this Title form part, sets forth and declares burdens &c in the following terms:

#### 1. Definitions, Interpretation and Construction

##### 1.1 Definitions

In this Deed:

"Block" means a building containing flatted dwellinghouses and any garden ground pertaining thereto;

"Car Parking Spaces" means the car parking spaces, footways and the access roadway(s) leading thereto shown coloured orange on the Plan;

"Common Parts" means in relation to a Block (i) the solum, foundations, outside walls, gables, roof, roof space so far as not conveyed exclusively to any Owner, and any chimney vents and stalks of the Block, and any internal division walls between any Flat and any of the other Common Parts, (ii) the drains and rainwater pipes, water supply pipes, tanks, cisterns, rhones, gutters, conductors, gas and electric mains, and all pipes, cables, wires and transmitters and connections so far as used in common by the Owners of more than one Flat in the Block; (iii) the entrance vestibule and any elevators and relative machinery and the stairs, landings, stair railings and the walls and ceilings enclosing the same and any bin stores or areas used exclusively by the Owners of a Block; (iv) the roof hatchway, the service cupboards, the common lighting, the fire alarm system, the common television aerial and the door entry system including the handset with each Flat; (v) any garden ground pertaining exclusively to a Block (but not any garden ground or pathway which is conveyed exclusively to an Owner); (vi) the whole parts and pertinents, fixtures and fittings of or in connection with a Block which are used in common by the Owners thereof (but always excluding from the Common Parts in relation to Phase 1 any garden ground and/or pathway exclusively serving a Flat);

"Developer" means us, the said The City of Edinburgh Council;

"Development" means All and Whole the site at Gracemount, Edinburgh, all as shown outlined in red on the Plan, which subjects form part and portion of All and Whole that area of ground formerly known as the Estate of Gracemount and others in the City of Edinburgh being the subjects and others under exception therein specified and shown coloured red on the plan marked 'PLAN NO.1' annexed and executed as relative to Disposition to The Lord Provost,

Magistrates and Council of the City of Edinburgh recorded G.R.S (Midlothian) 23 Apr 1956; under exception of the area of ground to be used as a play-park and shown coloured blue on the Plan;

"Factor" means the Developer or such other organisation or person who may be appointed in accordance with the provisions of Conditions 6.4 or 7.2;

"Flat" means a flatted dwellinghouse whether in a Block or self-contained;

"House" means any dwellinghouse constructed within the Development other than a Flat;

"Mutual Areas" means all roads, footways, footpaths, other areas of hard standing, car parking spaces where used in common and not allocated exclusively to any Owner (and for the avoidance of doubt, specifically excluding the Car Parking Spaces, being the areas shown coloured orange on the Plan), play areas, boundary features, retaining walls, soft landscaping, street lighting, surface and foul drainage and any pipes, cables, wires and other conduits which are used for the provision of gas, electricity, water, telecommunications or any other utilities or services to the Development, all to the extent that the same are located within the Development but except (1) to the extent that any of the same are allocated exclusively to any Owner and (ii) to the extent that any of the same form part of the Common Parts (declaring for the avoidance of doubt that no retaining walls within the Development are to be allocated exclusively to any Owner and so all such retaining walls form part of the Mutual Areas);

"Owner" means at any time the owner of any Unit, and where two or more persons own the Unit includes both or all of them;

"Residents Association" means the association of which all of the Owners shall automatically become members on the date on which each owner takes entry to a Unit, the purpose of which association shall be to carry out the purposes of this Deed in terms of the powers conferred by Condition 6 and otherwise to preserve the amenity of the Development and the enjoyment thereof by its members;

"Phase 1" means the area shown coloured pink on the Plan forming part and portion of the Development;

"Phase 2" means the area shown coloured green on the Plan forming part and portion of the Development;

"Plan" means the supplementary data to the title sheet-2;

"Unit" means each House or Flat constructed or to be constructed within the Development and the garden ground and any parking space pertaining exclusively thereto;

## 1.2 Interpretation and Construction

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

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

1.2.4 where at any one time there are two or more persons included in the expression "Owner" obligations contained on this Deed of Conditions are binding jointly and severally on them;

1.2.5 words importing individuals include legal persons and vice versa;

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

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

1.2.8 reference to any statute or statutory provision (including any subordinate legislation) includes any statute 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;

1.2.9 any phrase introduced by the words "including", "include", or "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.

### 1.3 Headings

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

### 1.4 Exercise of rights conferred by this Deed

Any rights conferred on an Owner or the Factor by this Deed of Conditions may be validly exercised by any person duly authorised by such Owner or the Factor including its tenants, agents and tradesmen, but subject to any limitations or restrictions imposed upon such Owner or the Factor by this Deed.

## 2. Community Burdens

### 2.1 Creation

2.1.1 The conditions set out in Conditions 2 to 6 are imposed on the Units in the Development as community burdens.

2.1.2 To the extent that the Developer is the Owner of any Unit, the conditions set out in Conditions 2 to 6 are real burdens in favour of such Unit.

2.1.3 Condition 7 is a manager burden.



## 2.2 Date of creation and application

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

## 2.3 Variation and Discharge of community burdens

A community burden may be varied or discharge by a deed of variation or discharge under Section 33 of the Title Conditions (Scotland) Act 2003 granted by or on behalf of the Owners of at least 40 per cent of the Units.

## 2.4 Lands Tribunal applications

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

## 3. Use of Units

3.1 Each Unit shall be used as a private dwellinghouse only, and for no other purpose whatsoever, and shall never in any way be sub-divided or occupied by more than one family at a time;

3.2 No trade, business, manufacturing process or profession can be carried on in a Unit except with the prior written consent of the Factor, which consent will not be unreasonably withheld if it can be demonstrated to the reasonable satisfaction of the Factor that the proposed activity will not cause a nuisance to other Owners. This prohibition applies whether or not such trade, business, manufacturing process or profession might be deemed in ordinary circumstances to be incidental or natural to the ordinary residential use of the Unit, and whether or not parties, other than the Owners of the Unit shall have a contractual right to use that Unit for, or in connection with, or arising out of a trade, business, manufacturing process or profession;

3.3 No board, card, plate or advertising notice of any kind (other than "For Sale" or "For Lease" signs) shall be placed on a Unit except with the prior written consent of the Factor;

3.4 No poultry, ducks, pigeons, rabbits, bees or other livestock shall be kept in a Unit. No domestic animal shall be kept in a Unit except with the prior written consent of the Factor (but declaring that consent is hereby given to one domestic animal being kept in a Unit as a pet). All permitted dogs shall be kept under control within the Development and shall at no time be allowed to run unfettered within the Development or to foul any part of the Development. There shall be no breeding of dogs, cats or any other animals or birds within a Unit;

3.5 Any part of the Mutual Areas which is designated by the Developer or the Factor as a parking space and any part of the Car Parking Spaces is for the sole purpose of parking of private motor cars or motor cycles. No boats, trailers, skips, caravans or works vehicles may be parked or stored on any part of the Development. The parking or storing of private motor cars or motor cycles within the Development, so as to cause an obstruction is prohibited. Any vehicle

which is deemed to be causing an obstruction will be removed from the Development. All Owners within the Development will be liable for the removal costs in equal shares. Further, any vehicles permitted to park within any part of the Mutual Areas which is designated by the Developer or the Factor as a parking space and any part of the Car Parking Spaces shall display a valid tax disc at all times.

3.6 No refuse or rubbish of any kind will be left or deposited on any part of the Mutual Areas and/or any part of the Common Parts otherwise than in accordance with the recommendations of the Local Authority but refuse or rubbish can be left in designated containers in a bin store designated for that purpose;

3.7 Nothing may be done within a Unit or within any part of a Block or the Common Parts or the Mutual Areas which may be deemed a nuisance or occasion disturbance to the other Owners in the Development or to their tenants or any other inhabitant in the neighbourhood;

3.8 The stairwell and landings within a Block must be kept unobstructed, clear and free;

3.9 No clothes line shall be attached to or suspended from any part of the exterior walls or downpipes of any Unit and no garbage cans, ash buckets, or any other refuse receptacles shall be left or deposited other than in the bin areas provided for that purpose;

3.10 The Owners in each Block shall in respect of the exterior parts of the Block and the Flats therein and the Common Parts thereof be bound to adhere to any common colour scheme which applies to the Development as a whole;

3.11 No satellite dishes or other television or telecommunications facilities are to be erected on a Block (with the exception of any communal facility) except with the prior written consent of the Factor, and in accordance with any reasonable directions of the Factor. Satellite dishes may be erected on a House but only provided that the Owner of such House has obtained the relevant statutory and local authority consents (if applicable) for such erection.

#### 4 Maintenance/Reinstatement/Insurance

4.1 The Owner of each Unit shall maintain his Unit and the pertinents thereof (including the garden) in good order and repair in all time coming and shall take all appropriate steps to prevent damage to the fabric of any larger Block of which the Unit forms part, and in particular by control of vermin and immediate treatment of any wood rot or infestation in the floors, skirting boards, joists, doors, walls, ceilings, mouldings and others and by the repair of any damage to the water supply pipes soil and water pipes and gas or electric cables, pipes or appliances within his own Unit and in the event of failure by any Owner to take timeous and adequate measures to prevent or repair such damage he shall be liable for any additional damage to other parts of the said Block arising from such failure. Without prejudice to the foregoing, in relation to Phase 1, the Owner of each Flat shall be obliged to maintain and repair any garden ground and/or pathway exclusively serving their Flat at its sole expense.

4.2 Where the Owners of two or more Units have a common right of property in any subjects each Owner shall be bound to uphold and maintain in good order and repair in all time coming (and in the event of damage or destruction, restore or renew) the said subjects paying one share of the cost of so doing for each Unit owned by him;

4.4 Any Unit or any part thereof which is destroyed or damaged, will be restored within one year of the date of such destruction or damage to at least the value thereof immediately prior to such destruction or damage. The whole sums received from the insurance company or companies shall be expended in re-erecting the said Unit or any part thereof or repairing the damage. The Unit or any part thereof shall be re-erected or restored so as to be in all respects consistent with the provisions and conditions herein contained;

4.5 Fences, walls or concrete edgings forming divisions between adjoining Units are erected as to one-half of the width on each of such adjoining Units (so that the boundary between such adjoining Units is the medial line of the division feature) and shall be maintained in good and sufficient repair, and shall be renewed (if necessary) by the adjoining Owners, at joint and equal cost of the adjoining Owners; notwithstanding the foregoing in relation to Phase 1 only, all of the Owners of the Units shall be liable for the cost of maintaining and repairing of the said items in equal shares.

4.6 Boundary walls, fences or concrete edgings separating a Unit from any path, pavement, street, road, amenity area, open space or play area within the Development, or a neighbouring property not forming part of the Development shall belong wholly to the Unit and shall be maintained in good and sufficient repair and when necessary, shall be renewed all at the sole cost of the Owner thereof; notwithstanding the foregoing in relation to Phase 1 only, all of the Units shall be liable for the cost of maintaining and repairing of the said items in equal shares.

4.7 No alteration or addition shall be made to any fences, walls, concrete edgings or any other form of boundary enclosure without the prior written consent of all parties having an interest therein. After completion of the Development no additional fences may be erected on the Development except with the prior written consent of the Factor. No sheds or garages may be erected on any part of the Development unless the prior written consent of the Factor is obtained.

4.8 Where any parts of the Development are designated by the Developer or by the Local Roads Authority as "sight lines" or "visibility splays", no trees, shrubs or other plants shall be permitted thereon, nor shall any fences, walls, any other form of boundary enclosure or other erections of any nature be erected thereon unless the height is below the maximum height permitted from time to time by the said Roads Authority in their regulations governing visibility splays and sight lines;

4.9 No edging of any kind delineating a sight line, visibility splay or service strip within the Development shall be removed;

4.10 The said sight lines or visibility splays in existence at the time of completion of the Development will be clearly marked on the plan annexed to the title deeds of each Unit affected thereby;

4.11 No Owner shall ever have a claim against the Developer in respect of the erection of any fences, walls or concrete edgings.

4.12 Whereas all necessary roads, pavements, footpaths and other utilities serving the Development shall in the first instance be constructed by or on behalf of the Developer to the respective specifications required by the appropriate Local Authority or statutory undertaker, the

same in so far as common service, shall upon completion to the required specification, upon construction of the said roads, pavements, footpaths and other utilities shall be maintained and repaired and, when necessary renewed, at the joint and equal expense of the Owners of each of the Units, and that until the same or any of them may be taken over for future maintenance by any public or local authority without implying any duty on the public or local authority or such body or bodies so to do;

4.13 The Owner of a Unit is responsible for the maintenance of the branch sewer pipe or pipes or other service pipes or cables exclusively serving their Unit;

4.14 Where any sewer, drain or other pipe or cable is common to two or more Units the expense of maintaining or renewing such sewer, drain or other service pipe or cable shall be shared equally by the Owners of the said Units using such common sewer, drain or other service pipe or cable. Where sewer or drainage pipes or others pass from one Unit through another Unit in order to connect up with any common or public sewer, drain or others, the Unit(s) through which the connecting sewer or drainage pipes or others pass shall be subject to a servitude right and wayleave for such connecting sewer or drainage pipes or others and that in favour of the parties using the same who shall be entitled to access thereto when required for the purpose of inspecting, maintaining, renewing or altering the levels of the same on all necessary occasions but subject always to making good and restoring all damage to the surface of the affected Unit and the buildings thereon occasioned thereby;

4.15 No building or buildings shall be erected over the line of any connecting sewer or drainage pipe or pipes or others or any part thereof without the prior written consent of the Local Authority and Scottish Water or other service utilities and should such consent be granted, the Owners shall be bound to protect or re-lay the said connecting sewer or drainage pipes or others at their sole expense to the satisfaction of the Local Authority and Scottish Water or other service utilities;

4.16 A "service strip" means a grass verge spanning from the road kerb to the heel kerb under or through which mains pipes, drains, sewers, cables and/or wires are led. Any service strip within a Unit will be clearly marked on the plan attached to the title deed of the relevant Unit. The service strips shall be kept in neat and tidy condition. Nothing can be planted or allowed to grow on a service strip other than grass seeding or turf. No building or other structure will be erected on a service strip. A service strip must be kept clear of all surface and underground obstructions. Any existing block paviors on a service strip must be left undisturbed. Nothing must be done which would be likely to damage any pipes, ducts, cables or other apparatus within a service strip, or make access to such apparatus more difficult or expensive, or alter the surface level of the service strip;

4.17 A "wayleave" means any area or conduit under or through which mains pipes, drains, sewers, cables, wires and other services are led which is not a service strip. No building or other structure can be erected on a wayleave and no trees shall be planted along the route of a wayleave. Nothing must be done along the route of a wayleave which would be likely to damage any pipes, ducts, cables or other apparatus within the wayleave, or make access to such apparatus more difficult or expensive, or alter the surface level of the wayleave.

4.18 Each Owner shall be bound to keep their Unit constantly insured with a well established Insurance Company against all risks normally covered by a Comprehensive Property Owners

Insurance Policy for full reinstatement value.

4.19 Where Units are Flats, the Owners of each Flat in a Block within Phase 2 shall be bound to concur with the Owners of the other Flat in that Block in keeping their interest in the Common Parts of that Block constantly insured by Common Insurance Policy with a well established Insurance Company against all risks normally covered by a Comprehensive Property Owners Insurance Policy for full reinstatement value. In relation to any Units which are Flats within Phase 1, we the said The City of Edinburgh Council shall be responsible for insuring the Common Parts of the Blocks within Phase 1, but notwithstanding the foregoing the Owner of Plot 1 within Phase 1 shall be separately responsible for insuring the Common Parts of the Block containing Plot 1 by Common Insurance Policy with a well established Insurance Company against all risks normally covered by a Comprehensive Property Owners Insurance Policy for full reinstatement value.

4.20 Owners of the Flats in a Block within Phase 2 shall be liable for payment of the annual premiums of the Common Insurance Policy referred to in Condition 4.19 in equal shares.

4.21 In the event that any Owner uses a Flat for any purpose which shall occasion an increase in rate of fire or other insurance premium for the insured subjects and the contents thereof or increase the cover of the relevant Block (as the case may be), thereby increasing the insurance premium for the insured subjects the Owner or Owners so causing such increase or increases shall be bound to pay the whole of such increase or increases in the insurance premium for the insured subjects and to relieve the remainder of the Owners thereof.

4.22 In the event of the insured subjects or any part thereof being destroyed or damaged by fire or other risks covered by the insurance policies the whole sum received from the Insurance Company or so much thereof as may be necessary shall be expended in re-erecting or restoring the insured subjects or repairing the damage done and the insured subjects shall be re-erected, restored or repaired to conform as far as practicable with the previous design and dimensions.

4.23 In the event of the cost of any such re-erection, restoration or repairs exceeding the sum recovered from the Insurance Company any further sum required to meet the said cost shall be paid by the relevant Owners of Flats in equal shares and shall be recoverable if necessary by an action at the instance of any one or more of the Owners of Flats or of the Factor each and all of whom shall have the authority to sue for and to recover all such shares so far as unpaid for and on behalf of all persons having such an interest in the re-erection, restoration or repair of the insured subjects or any part thereof; and in the event of the sum recovered from the Insurance Company exceeding the cost of the re-erection, restoration or repair any surplus shall be divided among the relevant Owners of Flats as at the date of the loss in the like proportions.

4.24 Each Owner shall give to the Factor as much advance notice of the Owner's intention to sell or otherwise dispose of his interest in his Unit, and of the proposed date of completion of such sale or other disposal, as it reasonably practicable.

4.25 Each Owner shall be obliged to uphold and maintain the Car Parking Spaces in good order and repair and from time to time renew if and insofar as necessary jointly with the other Owners with each Owner paying an equal share of the such cost. Further, each Owner shall take all appropriate and necessary steps either by himself or in conjunction with the other Owners to



prevent damage to the Car Parking Spaces which may prejudice the same or create a nuisance to the other Owners.

## 5 Mutual Areas, Common Parts and others

5.1 Each Owner of a Unit within the Development shall have a right in common together with a entitlement to use the Mutual Areas within the Development;

5.2 The Owners of the Units shall contribute to the whole costs of the management, maintenance, repair and where necessary renewal of the Mutual Areas to which they have a right in common on the basis of one share per Unit.

5.3 The Owners of the Flats shall have a right in common with the Owners of the other Flats in the same Block in and to the Common Parts of that Block;

5.4 The Owners of each Flat within a Block shall have exclusive right to:-

5.4.1 the entirety of any load-bearing internal walls within his Flat;

5.4.2 the inner half severed medially of the non-load bearing walls dividing his Flat from another Flat or Flats or any Common Parts of the Block other than any outside walls or gable walls; and

5.4.3 the inner surfaces of and the paint, paper, plaster or decorative finishes applied to the interior of any outside walls, load bearing walls and gable walls.

## 6 Meetings/Voting etc.

6.1 Immediately after an Owner has taken entry to a Unit, each Owner shall automatically become a member of the Residents' Association, the purpose of which will be to implement the terms of this Deed of Conditions and preserve the amenity of the Development. The powers of the Residents' Association are set out in Condition 6.

6.1.1 A meeting of the Residents' Association may be called by (a) the Owners of one third of the Units, or (b) the Factor and may be held at such reasonably convenient time and place (but excepting weekends and public holidays) as they or he may determine;

6.1.2 A meeting is called by sending to each Owner, not later than 14 days before the day fixed for the meeting, a notice stating:- (a) the date and time fixed for the meeting, (b) the place where it is to be held, and (c) the business to be transacted at the meeting;

6.1.3 Any inadvertent failure to comply with Condition 6.1.2 as respects any Owner does not affect the validity of proceeding at a meeting;

6.1.4 An Owner may appoint a mandatory to attend the meeting and to vote on his behalf.

## 6.2

6.2.1 A meeting of the Residents' Association is not to begin unless there is present or represented a quorum, that is to say, (a) one third of the Owners plus (b) where the Developer

owns any Unit within the Development, the Developer;

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

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

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

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

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

6.2.5 The Owners present or represented are to elect one of their number or the Factor to be chairman of the meeting;

6.2.6 The chairman is to arrange for a person to take minutes of the meeting;

6.2.7 Any Owner present or represented may nominate additional business to be transacted.

6.3 At a meeting of the Residents' Association:-

6.3.1 One vote is allocated to each Unit, and any right to vote is exercisable by the Owner of that Unit or his mandatory;

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

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

6.3.4 A decision on a matter specified in Condition 6.4 is binding on all the Owners and on their successors as Owners.

6.4 At a meeting of the Residents' Association the Owners may decide (subject to the manager burden contained in Condition 7):-

6.4.1 to appoint a person as Factor on such terms as they may specify;

6.4.2 to confer on the Factor the right to exercise such of their powers as they may specify, including;

(i) the power to make a binding decision on the matters mentioned in paragraphs 6.4.5 and 6.4.6 below, and

(ii) the power to enforce any rule;

6.4.3 to revoke, or vary, the right to exercise such of the powers conferred under paragraph 6.4.2 above as they may specify;

6.4.4 to dismiss the Factor;

6.4.5 to order maintenance, repairs, decoration and other operations in respect of the Common Parts and/or Mutual Areas;

6.4.6 to employ such gardeners, cleaners and other staff as may be required for the maintenance and preservation of the Mutual Areas;

6.4.7 to fix the amount of the initial deposit referred to in Condition 6.6 from time to time;

6.4.8 to fix the amount of the cyclical maintenance fund referred to in Condition 6.9 from time to time;

6.4.9 to arrange and fix the amount of any insurance cover for Blocks;

6.4.10 to modify or revoke any previous decision.

## 6.5

6.5.1 The Owners of the Units shall be liable for the maintenance and other costs arising out of a binding decision on a matter specified in Condition 6.4 hereof insofar as they relate to the Mutual Areas on the basis of one share per Unit;

6.5.2 The Owners of the Flats shall be liable for the maintenance and other costs arising out of a binding decision on a matter specified in Condition 6.4 hereof insofar as they relate to the Common Parts of the Block in which the Flats of those Owners are located on the basis of one share per Flat within the relevant Block.

6.5.3 The Factor shall be entitled to be fully and properly remunerated for performing the role of factor, having regard to the extent of responsibility which is given to the Factor pursuant to these presents from time to time. The Owners of the Units shall be liable for the remuneration of the Factor on the basis of one share per Unit;

6.5.4 The Factor can recover unpaid costs on behalf of the Owners and may do so in his own name;

6.5.5 Where a cost cannot be recovered from an Owner for some reason such as that (a) the estate of that Owner has been sequestrated, or (b) that Owner cannot, by reasonable inquiry, be identified or found, then that share must be paid by the other Owners as if it were a cost mentioned in Conditions 6.5.1, 6.5.2 or 6.5.3 above (as appropriate).

6.5.6 In the case of a major work (being a work the cost of which is estimated by the Factor (or the Residents' Association) to exceed £10,000 in respect of the whole Development or such greater amount as may from time to time be fixed by a meeting of the Residents' Association)



the Factor (or the Residents' Association as the case may be) shall, before instructing such work, obtain the authority of the Owners concerned (except in the case of any emergency or where the Factor is acting in the best interests of the Owners in order to preserve the amenity of the Development);

6.6 On taking entry to a Unit, each Owner must pay to:-

6.6.1 the Factor, or

6.6.2 a person nominated for that purpose,

if required, an initial deposit.

6.7 The initial deposit shall be such reasonable sum as shall be determined by the Developer, or such other sum as may be fixed in accordance with Condition 6.4.

6.8 On ceasing to be Owner of a Unit a person is entitled to repayment of the initial deposit without interest and under deduction of any sums due by that person under the terms of this Deed but no repayment is due until the initial deposit has been paid by the new Owner of the Unit.

6.9 In addition to the initial deposit each Owner (under exception of the Developer where the Developer is also an Owner) must, if requested pay to the Factor a contribution towards a cyclical maintenance fund to be held in trust for the Owners (under exception of the Developer where the Developer is also an Owner) for the purpose of planned inspections and repairs and renewals following from the planned inspections on an annual or otherwise programmed basis. Contributions to the cyclical maintenance fund are non- refundable.

6.10 Each of the Owners will pay to the Factor and in accordance with the Factor's invoicing requirements, the costs properly and reasonably incurred by the Factor (including plus VAT properly payable on them) in relation to the costs of maintaining, upholding and repairing of and any other costs relating to the Mutual Areas including any applicable insurance premiums, such as property owners liability insurance and on the basis of one share per Unit. In addition, the Owners of the Flats shall pay to the Factor and in accordance with the Factor's invoicing requirements, the costs properly and reasonably incurred by the Factor (plus VAT properly payable on them) in relation to the costs of maintaining, upholding and repairs of any other costs relating to the Common Parts of the Block including any applicable insurance premiums, such as property owners liability insurance in which the Flats of those Owners are located and on the basis of one share per Flat within the relevant Block.

6.11 Each of the Units shall be bound to pay to the Factor (or to a person nominated for that purpose) the payment of a management fee (to cover the remuneration of the Factor) to the Factor payable quarterly in arrears.

6.12 If requested to do so by any Owner in writing, the Factor must within two months of the end of the twelve month accounting period which the Factor operates for the purposes of performing his role pursuant to this Deed make available at a meeting of the Residents' Association or if any Owner so requests, at the Factor's place of business a full and vouched statement of account of his intromissions in respect of the said accounting period of twelve months.

6.13 All sums held by the Factor in respect of the Development (whether by virtue of this or any other Condition) are held in trust by him for the Owners.

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

6.15 An Owner of any Flat shall be entitled to effect a common repair in order to keep the Flat wind and water tight and/or in good sanitary condition.

6.16 In the event of any Owner carrying out repairs referred to in Condition 6.15 he shall as soon as reasonably practicable convene a meeting of the Owners to approve or sanction such repairs, except where such repairs require to be carried out in an emergency.

6.17 Except where the Manager Burden in Condition 7.2 applies, the Owners may make decisions in respect of matters specified in Condition 6.4 hereof at any meeting called in accordance with this Condition.

## 7 Manager Burden

7.1 The Development is subject to the manager burden in Condition 7.2 in favour of the Developer.

7.2 The Developer or anyone appointed by the Developer for the purpose may:

7.2.1 act as the manager of the Development (such person being designed herein as the "Factor");

7.2.2. appoint some other person to be such manager;

7.2.3 dismiss any person appointed by virtue of Condition 7.2.2

for 5 years from the date of registration of this Deed until the Developer no longer owns any Unit in the Development, whichever is the shorter period.

7.3 The Developer may assign the manager burden created in this Condition.

## 8 Servitudes

The rights in this Condition are servitudes imposed on the relevant burdened properties in favour of the relevant benefited properties

### 8.1 Community Servitudes

8.1.1 For the purposes of this Condition 8.1:

(i) the burdened property is the Development, and

(ii) each Unit is a benefited property.

8.1.2 The following servitudes are imposed on the Development in favour of each Unit:

- (i) a right of access for pedestrian and vehicular traffic over all roads, footpaths, parking spaces and lanes within the Development, other than those situated within any Unit;
- (ii) a right of access over, and use of, (including a right to erect scaffolding) any other Unit for the purpose of inspecting, cleaning, repairing and renewing any building, wall, fence or other structure (including any fences and hedges) erected on a Unit;
- (iii) a right of access over, and use of, (including a right to erect scaffolding) any other Unit for the purpose of inspecting, cleaning, repairing and renewing the drains, sewers, electric cables, gas and water mains, and other pipes, cables and enclosed units serving a Unit.

## 8.2 Development Servitudes

8.2.1 For the purposes of this Condition 8.2:

- (i) the burdened property is the Development, and
- (ii) each Unit is a benefited property.

8.2.2 The following servitudes are imposed on the Development in favour of each Unit:

- (i) a right to lead pipes, cables, wires or other enclosed units over or under the Development for sewage, electricity, gas, water and all other necessary purposes;
- (ii) a right to install, construct and lay drains, sewers, electric cables, gas and water mains, and other pipes, cables and enclosed units and to connect into such drains, sewers, electric cables, gas and water mains, and other pipes, cables and enclosed units as already exist or are installed by virtue of Condition 8.2.2(i), and
- (iii) a right to carry out all necessary acts of inspection, maintenance and renewal in respect of such drains, sewers, electric cables, gas and water mains, and other pipes, cables and enclosed units;
- (iv) a right of access for pedestrian and vehicular traffic (including construction traffic) over all roads, footpaths, parking spaces and lanes within the Development, including a right to form, construct, re-design, and re-align the roads, footpaths, parking spaces and lanes.

8.2.3 The rights conferred by this Condition 8.2 may be exercised in respect of any current or future development of the benefited property under this Condition 8.2.

8.2.4 Except for the right granted by Condition 8.2.2(i), the rights conferred by Condition 8.2 are extinguished in respect of any part of the benefited property when that part ceases to be owned by the Developer.

## 8.3 Building Servitudes

8.3.1 For the purposes of this Condition 8.3:

(i) each Unit is a burdened property, and

(ii) the benefited property is the Development.

8.3.2 The following servitudes are imposed as servitudes on each Unit in favour of the Development:

(i) a right of access (including a right to erect scaffolding) for the purpose of the erection of a building or other structure on any other Unit.

(ii) a right to move or remove any part or parts of any boundary wall or fence, and to re-position any boundary wall or fence to coincide with the title plans.

8.3.3 The rights conferred by this Condition are extinguished in respect of any part of the benefited property when that part ceases to be owned by the Developer.

#### 8.4 Exercise of servitude rights

8.4.1 The parties exercising the rights and obligations contained in Conditions 8.1, 8.2 and 8.3 will:

(i) except when exercising the rights contained in 8.1.2 (i) give reasonable prior written notice to the relevant Owners or the Developer;

(ii) exercise the rights at reasonable times and in a reasonable manner;

(iii) keep any disturbance and interference to a minimum; and

(iv) make good all physical damage caused to the Development or the Units to the reasonable satisfaction of the affected Owners or the Developer as soon as reasonably practicable.

8.4.2 The rights contained in Conditions 8.1, 8.2 and 8.3 may be exercised only where it is reasonably necessary for the purpose in question.

#### 9 Disputes

Any questions disputes or differences which may arise among any of the Owners shall, failing agreement, be referred to an arbiter jointly appointed by the parties or failing agreement by an arbiter to be appointed at the request of any party by the Chairman for the time being of the Scottish Branch of the Royal Institution of Chartered Surveyors in respect of practical matters relating to the Development, or the President of the Law Society of Scotland in respect of legal matters relating to the Development or this Deed of Conditions, and the decision of such arbiter shall be binding upon the parties who shall each bear their own costs in respect of any such determination. The application of Section 3 of the Administration of Justice (Scotland) Act 1972 is expressly excluded.

#### 10 Statutory Undertakers

There are reserved in favour of the local or public authorities and statutory undertakers and the like all necessary rights of access for the installation, repair, maintenance, cleaning and renewal of all electric cables, water, gas and drainage pipes, sewers, soil, waste and water supply pipes and all other cables, pipes and transmitters and other services serving the Units in the Development in, through and under any part of the Development provided that such rights may be exercised by any local or public authority or statutory undertaker without any liability on the part of us or our successors, and none of the Owners will have any claim against the Developer.

Note: The effectiveness of the real burdens in the foregoing Deed of Conditions was postponed in respect of a Unit on the date of registration in the Land Register of Scotland of a disposition of that Unit in which the conditions in this Deed of Conditions are expressly stated to apply. The real burdens have been made effective in respect of the subjects in this Title.

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