



Title Information: MID153884

Search summary

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| Date/Time of search | 19-11-2020 12:47:34 |
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| Transaction number | SCO-06683101 |
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Section A

MID153884

Property

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|------------------------------------|--|
| Date of first registration | 23-07-2007 |
| Date title sheet updated to | 25-07-2018 |
| Hectarage Code | 0 |
| Real Right | OWNERSHIP |
| Map Reference | NT3567 |
| Title Number | MID153884 |
| Cadastral Unit | MID153884 |
| Sasine Search | |
| Property address | FLAT D, 10 EASTER LANGSIDE DRIVE, DALKEITH EH222FH |

| | |
|--------------------|---|
| Description | Subjects FLAT D 10 EASTER LANGSIDE DRIVE, DALKEITH EH22 2FH being the first floor flat tinted blue on the Title Plan of the Block 10 EASTER LANGSIDE DRIVE with the car parking space tinted brown on the said Plan; Together with (one) the whole rights of property, common, mutual or otherwise specified in the Deed of Conditions in Entry 7 of the Burdens Section and the Supplementary Deed of Conditions in Entry 8 of the Burdens Section, (two) the servitude rights specified in the Deed of Servitudes and Conditions in Entry 4 of the Burdens Section and (three) the subsisting rights to real burdens specified in the Schedule of Real Burdens below. |
|--------------------|---|

Schedule of Particulars Relative to Subsisting Rights to Real Burdens

| Entry No | Benefited Property | Real Burdens | Burdened Property |
|-----------------|--|--|---|
| 1 | The subjects in this Title and other subjects | Deed of Servitudes and Conditions, registered 23rd May 2005, being Entry 4 of the Burden Section. | The Grange Land and the Pentland Land as defined in the said Deed of Servitudes and Conditions. |
| 2 | The subjects in this Title and other subjects. | Deed of Conditions, registered 23rd Jun. 2010, being Entry 7 of the Burdens Section. | The Development as defined in the said Deed of Conditions. |
| 3 | The subjects in this Title and other subjects. | Supplementary Deed of Conditions, registered 30th Jan. 2014, being Entry 8 of the Burdens Section. | The Community as defined in the said Supplementary Deed of Conditions. |

19/11/2020

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Section B

MID153884

Proprietorship

MICHAEL HAINING 36 Clarinda Gardens, Dalkeith, EH22 2LW.

| | |
|-----------------------------|------------|
| Entry number | 1 |
| Date of registration | 27-04-2018 |
| Date of Entry | 20-04-2018 |
| Consideration | £137,000 |

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Section C

MID153884

Securities

| | |
|-----------------------------|--|
| Entry number | 1 |
| Specification | Standard Security by said MICHAEL HAINING to NATIONWIDE BUILDING SOCIETY incorporated under the Building Societies Act 1986, Head Office Nationwide House, Pipers Way, Swindon SN38 1NW. |
| Date of registration | 27-04-2018 |

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Section D

MID153884

Burdens

Number of Burdens: 9

Burden 1

Disposition by British Railways Board to Buccleuch Estates Limited and their successors and assignees, recorded G.R.S. (Midlothian) 19 Jul. 1989, of 2 areas of ground, extending in total to 6.739 acres ("the subjects"), contains the following burdens:

The said subjects are sold under burden of any servitudes and rights of wayleave for laying and maintaining sewers, drains, pipes, cables, telegraph and telephone poles, wires and stays that may be laid in, through or across the said subjects.

Burden 2

Grant of Servitude containing Disposition by Pentland Limited (who and whose successors as proprietors of the lands aftermentioned are hereinafter referred to as "the Owner") to BG Public Limited Company and their successors (all hereinafter referred to as "the Company"), recorded G.R.S. (Midlothian) 9 Apr. 1998, of a servitude right and tolerance in, through and over the strip of land aftermentioned of laying down, constructing, inspecting, maintaining, protecting, using, replacing and removing or rendering unusable a pipeline for the transmission or storage of gas or other ancillary materials (whether such gas or materials are transmitted by the Company on its own behalf or on behalf of other persons) connected with the exercise and performance of the functions of the Company and all necessary apparatus ancillary thereto (all hereinafter collectively called "the said works") in, upon and over a strip of land twelve metres in width and indicated for identification purposes only by the line shown coloured red and lettered A to B on the plan annexed hereto (hereinafter called "the said strip of land") which strip of land extends for a distance of approximately one hundred and ninety eight metres and is part of those six areas or pieces of ground extending in total to 691.6 acres (hereinafter called "the said lands");

TOGETHER WITH the right to the Company of vehicular and pedestrian access to the said strip of land and of passage over the said strip of land for the purposes of the said works and of any works of the Company contiguous therewith and over the lands for the purpose of access to the said strip of land at all reasonable times and in an emergency at any time whether or not with workmen, vehicles, machinery and apparatus.

2. The said servitude is granted with and under the following real burdens, conditions and obligations, namely:-

COMPANY'S OBLIGATIONS

(i) In exercising the servitude hereby granted the Company shall take all reasonable precautions to avoid obstruction to or interference with the use of the said lands and damage or injury thereto;

(ii) The Company shall so far as reasonably practicable make good all damage or injury to the said lands caused by the exercise by the Company of the servitude hereby granted and shall make full compensation to the Owner in respect of any such damage or injury in so far as the same shall not have been made good as aforesaid;

(iii) The Company shall so far as reasonably practicable and so long as the said works are used for or in connection with the transmission or storage of gas or other materials as aforesaid keep the said works in proper repair and condition and upon abandonment of the said works or any part thereof, notification whereof shall be given to the Owner by the Company, render and make the same permanently safe to the satisfaction of the Owner and on so doing the servitude right hereby granted shall be deemed to be discharged, the Company thereafter having no rights or obligations in respect of the said works or part thereof in the said lands;

(iv) The Company shall keep the Owner indemnified against all actions, claims or demands arising by reason of the exercise of the servitude hereby granted or failure to keep the said works in proper repair and condition as aforesaid (excepting any such actions, claims or demands as may be occasioned by the negligent or wrongful act of the Owner or his servants or agents) provided that the Owner shall not settle or compromise any such actions, claims or demands as are referred to herein without the prior consent of the Company;

(v) The Company shall indemnify and keep the Owner indemnified against all loss, damage, claims, demands, costs and expenses which may arise or be incurred by virtue of any damage or destruction of the pipeline aforesaid or any apparatus or equipment attached thereto or used in connection therewith or any escape of any gas or other material whatsoever from the said pipeline or any such apparatus or equipment as aforesaid where such damage, destruction or escape is caused by the acts or omissions of any person other than the Owner or his servants or agents provided that the Owner shall not settle or compromise any such claims or demands as are referred to herein without the consent of the Company;

(vi) The Company shall pay all public rates and taxes which may be imposed in respect of the said works or the servitude hereby granted;

(vii) If any interference with or disturbance of the functioning of any drain or drainage system in, on or under the said lands can be shown by the Owner to have been caused by the laying of any pipeline in the exercise of the servitude hereby granted then the Company shall so far as reasonably practicable make good any damage or injury thereby caused and shall make full compensation to the Owner in respect thereof in so far as the same shall not have been made good as aforesaid;

3. For the purpose of securing to the Company the said servitude and to benefit and protect the same at all hands the Owner agrees:-

OWNER'S OBLIGATIONS

(i) not to do or cause or permit to be done on the said lands anything calculated or likely to cause damage or injury to the said works and to take all reasonable precautions to prevent such damage or injury;

(ii) not, without the prior consent in writing of the Company, to make or cause or permit to be made any material alteration to or any deposit of anything upon any part of the said strip of land so as to interfere with or obstruct the access thereto or to the said works by the Company or so as to affect in any way the support afforded to the said works by the surrounding soil including minerals or so as materially to reduce the depth of soil above the said works;

(iii) not to erect or instal or cause or permit to be erected or installed any building or structure or permanent apparatus in, through, upon or over the said strip of land provided that nothing herein contained shall prevent the Owner from installing any necessary service pipes, drains, wires or cables under the supervision and with the consent (which shall not be unreasonably withheld) of the Company or their agents or from carrying on normal agricultural operations or acts of good husbandry including fencing, hedging and ditching not causing such interference, obstruction or material reduction of the depth of soil as aforesaid.

4. ARBITRATION

Any dispute arising hereunder shall be determined in default of agreement by a single arbiter to be agreed upon between the parties hereto or failing agreement to be appointed on the application of either party (after notice in writing to the other party) by the Chairman of the Scottish Branch of the Royal Institution of Chartered Surveyors and the provisions of the Arbitration (Scotland) Act 1894 and of any statutory modification or re-enactment thereof for the time being in force shall apply to any such reference and determination and for the avoidance of doubt the costs of the arbitration shall be borne by the parties in such manner as shall be determined by the Arbiter.

5. LOSS OF DEVELOPMENT

(i) If at any time

(a) Permission is granted under the provisions of the Town and Country Planning (Scotland) Act 1972 or any statutory modification or re-enactment thereof for the time being in force (otherwise than by a Development Order) for any development which consists of or includes building operations which the Owner is prevented by the existence of the servitude hereby granted from carrying out or it is shown that but for the said works such permission might reasonably have been expected to be granted and

(b) the said development whether in the form for which permission is granted as aforesaid or in any alternative form of equivalent value for which permission might reasonably be expected to be granted cannot reasonably be carried out elsewhere on the said lands consistently with the servitude hereby granted and

(c) the principal amount of compensation which would have been payable in respect of a compulsory acquisition by the Company of the servitude right hereby granted in pursuance of a notice to treat served on the date hereof if such permission had previously been granted exceeds the consideration for the granting of these presents (which consideration has been calculated without reference to the prospect of any such operations) then, subject to the provisions of this clause the Company will pay to the Owner a sum equal to the excess of such principal amount of compensation over the said consideration with interest from the date when the said permission was or might have been granted;

- (ii) If the Owner claims to be entitled to a payment under the last foregoing sub-clause hereof he shall give notice in writing to the Company of such claim and shall furnish all such particulars in relation thereto as the Company may reasonably require;
- (iii) There shall be deducted from any such sum an amount equal to any sum previously so paid or payable by virtue of the provisions of this clause in respect of the same land;
- (iv) Any dispute arising out of the provisions of this clause shall be referred to arbitration in the manner hereinbefore provided by Clause 4 hereof and subject to the same provisions as to the award of costs by the Arbiter.

6. DECLARING FURTHER: SUPPORT

- (i) The conditions hereinbefore contained in Clauses 2 and 3 hereof shall have effect subject to this Clause;
- (ii) The statutory provisions substituted by Part II of the Mines (Working Facilities and Support) Act 1923 for Sections 71 to 78 of the Railway Clauses Consolidation (Scotland) Act 1845 are deemed to be incorporated herein;
- (iii) The said provisions shall be construed as if the reference therein to the Mine Owner were reference to the Owner and as if references to the Company were references to BG Public Limited Company and references to rail level were references to top of pipe line level;
- (iv) Any arbitration under the said provisions shall be in the manner hereinbefore provided by Clause 4 hereof and such of the provisions referred to in this Clause as may be inconsistent therewith shall be of no effect.

7. DISPOSAL BY OWNER

The Owner or any of his successors as proprietors of the said lands shall not bring any action on any matter contained herein where the cause of action arises after the said proprietors have sold (or otherwise parted with) their heritable interests in the said lands.

Note: The plan annexed to the foregoing deed has not been submitted to the Keeper, therefore the said line coloured red on the plan annexed to the above Grant of Servitude cannot be determined in relation to the subjects in this Title.

Burden 3

Minute of Agreement (in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997), recorded G.R.S. (Midlothian) 18 Dec. 2003, among Midlothian Council (hereinafter defined as the "First Party") and Pentland Limited (hereinafter defined as "the Second Party") and Royal Bank of Scotland plc (hereinafter defined as the "Bank") and Grange Estates (Newbattle) Limited (hereinafter defined as the "Third Party"), in the following terms:

WHEREAS the First Party is the planning authority for Midlothian in terms of Section 1 of the Town and Country Planning (Scotland) Act 1997 (which Act, including any amendment thereto or

re-enactment thereof, is hereinafter referred to as the "Planning Act").

AND WHEREAS the Second Party is the heritable proprietor of the Second Party's Land (as hereinafter defined) all as shown coloured blue on the plan annexed hereto (which plan is hereinafter referred to as the "Plan).

AND WHEREAS the Third Party is the heritable proprietor of the Third Party's Land (as hereinafter defined) all as shown coloured yellow on the Plan.

AND WHEREAS the Bank is the Second Party's heritable creditor in terms of the Standard Security (as hereinafter defined).

AND WHEREAS the Lothian Structure Plan 1994 with reference to Policy H11 provides that where a developer wishes to obtain planning consent for development consistent with other policies in the Structure Plan prior to the local authority providing the necessary infrastructure the local authority shall support discriminative use of agreements in terms of Section 75 of the Planning Act or other legal agreements to achieve the necessary provision with developers' contributions.

AND WHEREAS the First Party has prepared a local plan in terms of Section 11 of the Planning Act and the Midlothian Local Plan is now in its finalised and modified form (which plan is hereinafter referred to as the "Local Plan") and contains a proposal that land at Wester Cowden and Thornybank, Dalkeith be developed for purposes that include the erection of 600 dwellinghouses upon the Site L and Site M as delineated in red on the said Local Plan (hereinafter referred to as the "Development").

AND WHEREAS the Local Plan contains a proposal that land adjacent to Site M at Thornybank, Dalkeith be allocated for development for purposes that include the erection of 225 houses upon Site N as delineated on the Local Plan.

AND WHEREAS the Local Plan states that the Development will not proceed until provision for essential infrastructure and environmental requirements has been made.

AND WHEREAS deficiencies in community facilities arising from the proposed Development at Wester Cowden and Thornybank, Dalkeith will require to be made good and the First Party is unable to do so.

AND WHEREAS as a consequence of the Development there are requirements that the following be provided: a Two-Stream Primary School (as hereinafter defined), improvements to Wester Cowden Road and Salter's Road, non-denominational and denominational secondary school capacity on a Joint Campus (as hereinafter defined), Dalkeith town centre improvements and local recreational/community facilities and a swimming facility (which local recreational/community facilities and swimming facility the First Party has agreed shall be provided within the Joint Campus).

AND WHEREAS the Local Plan states that where a need for affordable housing is clearly established provision should be made, where capacity (including infrastructure capacity) allows, for affordable housing in association with new housing development proposed in the Local Plan

not exceeding 10% of the number of new houses that are proposed and that need has been established.

AND WHEREAS The Buccleuch Estates Limited incorporated under the Companies Acts with registered number SC 12615 and having its registered office at Thornhall House, Dalkeith, Midlothian EH22 2NQ on behalf of the Second Party and the Third Party has applied to the First Party by means of a Planning Application identified in the Planning Register by the number 99/00188/OUT and registered on 20 April 1999 (hereinafter referred to as the "Planning Application") for Planning Permission for a housing development in accordance with the above Local Plan proposals upon Site L and Part of Site M in the Local Plan and as shown delineated in red on the Plan (hereinafter referred to as the "Planning Unit").

AND WHEREAS the said proposed housing development is proposed on and contained within land which is in the heritable proprietorships of the Second Party and the Third Party, which land is shown delineated in blue and yellow respectively on the Plan.

AND WHEREAS the part of Site M outwith the Planning Unit (hereinafter referred to as the "Remainder of Site M") is contained within land which is in the heritable proprietorship of the Second Party.

AND WHEREAS the whole of Site N is contained within land which is in the heritable proprietorship of the Second Party.

AND WHEREAS the First Party as planning authority has indicated its willingness to grant the Planning Application subject to conditions and subject to the Second Party and the Third Party entering into this Agreement.

AND WHEREAS the effect of the said conditions includes the requirement that the Development of the Planning Unit conform with a master plan (hereafter referred to as "the Master Plan") to be approved by the First Party and the Master Plan will show the manner in which it is proposed the whole of Sites L, M and N are to be developed including indicative areas for any provision for affordable housing.

NOW THEREFORE the First Party, the Second Party, the Third Party and the Bank in terms of Section 75 of the Planning Act HAVE AGREED and DO HEREBY AGREE as follows, videlicet:-

AGREEMENT

1. This Agreement is entered into by the Parties hereto under the terms of Section 75 of the Planning Act and hereby binds the Second Party's Land and the Third Party's Land in respect of the obligations undertaken by the Second Party and the Third Party in terms of this Agreement. Declaring for the avoidance of any doubt that (1) the Second Party shall not be jointly and severally liable to the First Party for any of the obligations of the Third Party under this Agreement and (2) the Third Party shall not be jointly and severally liable to the First Party for any of the obligations of the Second Party under this Agreement.

INTERPRETATION

2. In this Agreement the following words and phrases have the following meanings:-

- 2.1 "Affordable Dwellinghouse" means any dwellinghouse 1 (as hereinafter defined) which is sold to an Approved Person (as hereinafter defined) for a price equal to 80% of the open market value thereof.
- 2.2 "Affordable Housing" means the provision of housing available at a cost below market value to meet an identified need which may include, without prejudice to the foregoing generality, low cost housing for sale, social rented housing, low cost private sector rented housing, sheltered housing accommodation and provision for nursing home accommodation providing care for the elderly.
- 2.3 "Arbitration" means arbitration in terms of Clause 23 hereof.
- 2.4 "Agreement" means this agreement together with the Plan, the Schedule, the Decision Notice, the Bond, the Traffic Regulation Order, Minute of Agreement and the Draft Standard Security.
- 2.5 "Agreement 2" means the agreement entered into under Section 75 of the Planning Act among the First Party, the Second Party and the Bank in respect of the Remainder of Site M recorded in the Division of the General Register of Sasines of even date with the recording of this Agreement.
- 2.6 "Approved Person" means a person who has been selected to purchase an Affordable Dwellinghouse in accordance with the First Party's affordable housing scheme.
- 2.7 "Bank" means the Royal Bank of Scotland plc and its successors as heritable creditor in the Standard Security.
- 2.8 "Bank Account" means the First Party's bank account with the Royal Bank of Scotland plc, 63 High Street, Dalkeith, Midlothian, the details of which are as follows:- account number - 00128363; sort code - 83-17-26, or such other bank account as the First Party may determine from time to time.
- 2.9 "Bona Fide Third Party Purchaser" means any bona fide purchaser, or his successor in title, of a Dwellinghouse 1 and/or a Dwellinghouse 2 from the Second Party and/or the Third Party.
- 2.10 "Bond" means the bond approved by the First Party in writing acting reasonably and provided by the Second Party to the First Party from a bank or other financial institution to be approved by the First Party in writing acting reasonably and conforming to the draft bond annexed as relative hereto.
- 2.11 "Client's Extras" means any additions or alterations to the normal specification for that particular house requested by a Bona Fide Third Party Purchaser and implemented by the Second Party.
- 2.12 "Decision Notice" means the unsigned decision notice annexed as relative hereto.
- 2.13 "Deed of Restriction" means a properly and validly executed Deed or Instrument issued by the First Party excluding the obligations due under the Agreement of either the Second Party and/or the Third Party or their successors in relation to an area or areas within the Second

Party's Land and/or the Third Party's Land and recordable in the Division of the General Register of Sasines for the County of Midlothian or Land Register (if this is appropriate).

2.14 "Detailed Planning Permission" means a proper and valid grant of approval of the reserved matters detailed in the Planning Permission.

2.15 "Dwellinghouse" has the same meaning assigned to it as in the Agreement 2.

2.16 "Dwellinghouse 1" means, any dwellinghouse (including a detached, semi-detached, terraced or flatted dwellinghouse and for the avoidance of doubt any Affordable Dwellinghouse) for which there has been granted a certificate of completion or certificate of temporary occupation under the Building (Scotland) Act 1959, (which Act, including any amendment thereto or re-enactment thereof, is hereinafter referred to as "the 1959 Act") on the Second Party's Land.

2.17 "Dwellinghouse 2" means any dwellinghouse (including a detached, semi-detached, terraced or flatted dwellinghouse and for the avoidance of doubt any Affordable Dwellinghouse) for which there has been granted a certificate of completion or certificate of temporary occupation under the 1959 Act on the Third Party's Land.

2.18 "Dwellinghouse Payment" has the meaning assigned to it as in the Agreement 2.

2.19 "Dwellinghouse Payment 1" means the payment of FIVE THOUSAND POUNDS (£5000) Sterling by the Second Party to the Bank Account in respect of each Dwellinghouse 1 for which, from and after the Dwelling House Payment Event taking place, there is granted a certificate of completion or certificate of temporary occupation under the 1959 Act and declaring that this does not apply in respect of any Dwellinghouse 1 for which there is granted a certificate of completion or certificate of temporary occupation under the 1959 Act before the Dwellinghouse Payment Event takes place.

2.20 "Dwellinghouse Payment 2" means the payment of FIVE THOUSAND POUNDS (£5000) Sterling by the Third Party to the Bank Account in respect of each Dwellinghouse 2 for which, from and after the Dwelling House Payment Event taking place, there is granted a certificate of completion or certificate of temporary occupation under the 1959 Act; and declaring that this does not apply in respect of any Dwellinghouse 2 for which there is granted a certificate of completion or certificate of temporary occupation under the 1959 Act before the Dwellinghouse Payment Event takes place.

2.21 "Dwellinghouse Payment Event" means the event occurring when the aggregate number of Dwellinghouse 1 and Dwellinghouse 2 and Dwellinghouse (in respect of which there has been granted a certificate of completion or certificate of temporary occupation under the 1959 Act) exceeds 200.

2.22 "First Party" means The Midlothian Council incorporated under the Local Government etc. (Scotland) Act 1994 as Planning Authority for Midlothian in terms of Section 1 of the Planning Act and its successors as Planning Authority therefor.

2.23 "First Phase" means the provision of the first seven classrooms, nursery class, ancillary accommodation and facilities of the Two Stream Primary School.

2.24 "Net Developable Acreage" means every acre of land or any part thereof (calculated to two decimal places) within the Planning Unit and the Remainder of Site M which, at the date on which the Net Developable Acreage is being calculated for any purpose, has been or is reasonably expected to be granted detailed planning permission permitting the construction of dwellinghouses with estate roads, garages, parking spaces and areas, gardens and surrounds and ancillary landscaping but excluding all of the following: any land for distributor roads (or parts thereof) which do not permit frontage development, public open space, ground for cycle paths, isolated footpaths, buffer landscaping, tree belts and areas planning permission stipulates are to be woodland or left as woodland, play equipped areas, service installations, areas sterilised by infrastructure and services, amenity land, land for other social or community uses and any land which would not give rise to any development benefit.

2.25 "Joint Campus" means the development to be constructed on land at Thornybank, Dalkeith which will include secondary schools, a special school and related social, sporting, swimming and leisure facilities.

2.26 "Planning Permission" means a proper and valid outline planning permission granted pursuant to the Planning Application and issued in terms of the Decision Notice together with all approved docquetted plans.

2.27 "Planning Permission 1" has the same meaning assigned to it as in the Agreement 2.

2.28 "Planning Permission 2" has the same meaning assigned to it as in the Agreement 2.

2.29 "Proper Officer" means an officer of the First Party who has the authority by virtue of Section 193 of the Local Government (Scotland) Act 1973, as amended, to execute on behalf of the First Party, the valid and probative written declarations referred to in Clauses 4 and 12.5.

2.30 "RICS Index" means the "All in Tender Price Index" published by the Building Cost Information Service Limited.

2.31 "RICS Uplift Payment" means the sum payable by the Second Party and/or the Third Party to the First Party representing the increase calculated by reference to the RICS Index from 1 April 2001 to the date on which either the Dwellinghouse Payment 1 or Dwellinghouse Payment 2 is made to the First Party by reference to the following formula:-

£3000 multiplied by (Index Figure 2 minus Index Figure 1) and divided by Index Figure 1, where:-

"Index Figure 1" represents 170 which is the level of the RICS Index for the second quarter of 2001; and

"Index Figure 2" represents the level of the RICS Index in relation to the quarter immediately prior to the date on which the relevant Dwellinghouse Payment 1 or Dwellinghouse Payment 2 is to be made.

2.32 "Secondary School Rebate" means the payment due to the Second Party and the Third Party in the event that the combined cost of the Joint Campus, under the headings of Land Cost, Preparation Cost and Contractor Cost, do not exceed "THIRTY THREE MILLION EIGHT HUNDRED AND SIXTY THOUSAND POUNDS" (£33,860,000) Sterling, declaring that the same

heads of cost will be used when making the comparison, further declaring that the payment shall be calculated thus:- £1,125,000 minus (Actual Cost multiplied by £1,125,000 divided by £33,860,000).

2.33 "Second Party" means Pentland Limited, incorporated in the Cayman Islands and having its Registered Office at Strathvale House, P.O. Box 1109 Grand Cayman, British West Indies and its successors in title to the Second Party's Land.

2.34 "Second Party's Land" means the land lying generally to the west of Dalkeith in the County of Midlothian extending to twenty one hectares and ninety one decimal or one hundredth parts of a hectare or thereby and shown coloured blue on the Plan.

2.35 "Second Phase" means the completion of the Two Stream Primary School by providing a further seven classrooms and ancillary accommodation and facilities.

2.36 "Standard Security" means the standard security granted by the Second Party in favour of the Bank over inter alia the Second Party's Land recorded in the said Division of the General Register of Sasines on 16 May 1994.

2.37 "Schedule" means the schedule annexed as relative hereto.

2.38 "Third Party" means Grange Estates (Newbattle) Limited, a company incorporated under the Companies Acts (Registered Number 82225) and having their registered office at 15 Atholl Crescent, Edinburgh EH3 8HA and its successors in title to the Third Party's Land.

2.39 "Third Party's Land" means that area of ground extending to 16.13 acres (6.53 hectares) or thereby at Wester Cowden, Dalkeith in the County of Midlothian shown coloured yellow on the Plan.

2.40 "Traffic Regulation Order" means an order by the First Party in its capacity as statutory roads authority under the Road Traffic Regulation Act 1984 and the Local Authorities Traffic Orders (Procedure) (Scotland) Regulations 1999 including any amendment or re-enactment of said Act and/or said Regulations, prohibiting vehicles from exiting or entering Cowden Street, Dalkeith to or from the A68 Road all as set out in the draft The Midlothian Council (Cowden Road, Midlothian) (prohibition of Vehicles) Traffic Regulation Order 2002, a copy of which is annexed as relative hereto.

2.41 "Two Stream Primary School" means a primary school with fourteen classrooms, a nursery class and ancillary accommodation and facilities to be built adjacent to the Joint Campus.

2.42 "Windfall Site" means housing sites which are not identified through forward planning processes but become available for various ad hoc reasons and are granted planning permission after the signing of this agreement.

2.43 "Works" means the Two-Stream Primary School, non-denominational and denominational secondary school capacity (on a Joint Campus), Dalkeith town centre improvements and local recreational community facilities and swimming facility which are to be provided within the Joint Campus all as specified in the Schedule.

2.44 No significance in this Agreement shall be attached to the use of the masculine or feminine or neuter gender and where the context so admits terms expressed in the singular shall include the plural and vice versa.

2.45 No significance shall be attached to the headings used in this Agreement which are for ease of reference only and shall not affect the construction or meaning of this Agreement.

RESTRICTION ON THE OCCUPATION OF DWELLINGHOUSES

3.1 It is hereby declared and provided that no Dwellinghouses 1 shall be occupied by any Bona Fide Third Purchaser unless and until the sum of ONE MILLION POUNDS (£1,000,000) Sterling (hereinafter referred to as "the Initial Payment") has been made in accordance with Clause 4 below. Further declaring that on the Dwellinghouse Payment Event occurring, no Dwellinghouse 1 shall be occupied as aforesaid unless and until the Dwellinghouse Payment 1 has been received by the First Party in respect thereof in accordance with Clause 5 below.

3.2 It is hereby declared and provided that no Dwellinghouse 2 shall be occupied by any Bona Fide Third Party Purchaser unless and until the Initial Payment has been made in accordance with Clause 4 below. Further declaring that on the Dwellinghouse Payment Event occurring, no Dwellinghouse 2 shall be occupied as aforesaid unless and until the Dwellinghouse Payment 2 has been received by the First Party in respect thereof in accordance with Clause 5.1 below.

INITIAL PAYMENT

4. The Second Party shall pay into the Bank Account the Initial Payment in cleared funds on or before 31 March 2003 or on the date of the first granting of a certificate of completion or certificate of temporary occupation under the 1959 Act for a dwellinghouse (or dwellinghouses) erected within the Planning Unit whichever shall be the earlier date. On payment the First Party shall provide the Second Party with a written declaration signed by the Proper Officer of the First Party confirming that the Initial Payment shall be used in respect of payments properly due or already made by the First Party in respect of any cost associated with the Joint Campus including, for the avoidance of doubt, the purchase of the land on which the Joint Campus is erected.

DWELLING HOUSE PAYMENTS

5. From and after the occurrence of the Dwellinghouse Payment Event, the Second Party undertakes to remit the Dwellinghouse Payment 1, together with the RICS Uplift Payment (if applicable) into the Bank Account no later than 7 days prior to the date when the Bona Fide Third Party Purchaser of the Dwellinghouse 1 in question is due to take entry thereto; Declaring for the avoidance of doubt that no Dwellinghouse 1 shall be occupied by a Bona Fide Third Party Purchaser unless and until the Dwellinghouse Payment 1 in respect thereof has been received by the First Party. Notwithstanding the foregoing the First Party agrees that such payments may be paid into the Bank Account by the Second Party quarterly in advance on 31 January, 30 April, 31 July and 31 October. On making any such payments as aforesaid the Second Party shall, at the same time, provide to the First Party, an account of any such payments made which indicates clearly the dwellinghouses to which the payments relate and the date of entry thereto.

5.1 From and after the occurrence of the Dwellinghouse Payment Event, the Third Party undertakes to remit the Dwellinghouse Payment 2, together with the RICS Uplift Payment (if applicable) into the Bank Account no later than 7 days prior to the date when the Bona Fide Third Party Purchaser of the Dwellinghouse 2 in question is due to take entry thereto; Declaring for the avoidance of doubt that no Dwellinghouse 2 shall be occupied by a Bona Fide Third Party Purchaser unless and until the Dwellinghouse Payment 2 in respect thereof has been received by the First Party. Notwithstanding the foregoing the First Party agrees that such payments may be paid into the Bank Account by the Third Party quarterly in advance on 31 January, 30 April, 31 July and 31 October. On making such payments as aforesaid the Third Party shall at the same time, provide to the First Party, an account of any such payments made which indicates clearly the dwellinghouses to which the payments relate and the date of entry thereto.

DWELLINGHOUSE PAYMENT EVENT OBLIGATION

6. The Second Party undertakes to serve notice on the First Party when the Dwelling House Payment Event occurs and that within 14 days thereof and in writing.

BALANCING PAYMENT

7. The Second Party undertakes to pay the First Party a Balancing Payment (as hereinafter defined).

7.1 The Balancing Payment shall be the sum of:

(a) TWO MILLION POUNDS (£2,000,000) Sterling (or, if applicable, such lesser sum as is calculated as provided for in Clause 7.3 below) less (1) every Dwellinghouse Payment 1 (and such equivalent payments for the Remainder of Site M) made by the Second Party and (2) every Dwellinghouse Payment 2 made by the Third Party ("the Basic Sum"); and

(b) (0.6 multiplied by the Basic Sum) multiplied by (Index Figure 2 minus Index Figure 1) divided by Index Figure 1, where:-

"Index Figure 1" represents 170 which is the level of the RICS Index for the second quarter of 2001; and

"Index Figure 2" represents the level of the RICS Index in relation to the quarter immediately prior to the date on which the Balancing Payment is due.

7.2 The Balancing Payment shall become due on the latest of the following dates:-

7.2.1 the date occurring six years after the first granting of a certificate of completion or certificate of temporary occupation under the 1959 Act for a dwellinghouse (or dwellinghouses) erected within the Planning Unit; or

7.2.2 the date occurring four years after the date of issue of the certificate of occupation for the First Phase; or

7.2.3 the date occurring four years after the date on which the Traffic Regulation Order has been made.

The Balancing Payment shall be paid into the Bank Account by the Second Party within fourteen days of its payment becoming due.

7.3 Declaring that in the event of planning permission not being granted for the residential development of the Remainder of Site M before the due date for payment of the Balancing Payment, the calculation of the Balancing Payment shall be adjusted by replacing the sum of £2,000,000 in the above formula with the sum resulting from the following formula:-

£2,000,000 multiplied by the Net Developable Acreage within the Planning Unit divided by the sum of the Net Developable Acreage of the Planning Unit and the Net Developable Acreage within the Remainder of Site M.

FIRST PARTY WITHDRAWAL OF FUNDS

8. The First Party shall only be entitled to expend funds from the payments made by the Second and the Third Parties into the Bank Account in respect of payments properly due or already made by the First Party in respect of any costs associated with the Works including, for the avoidance of doubt, the cost of the purchase of any land which is required to facilitate the Works and a report shall be provided to the Second Party and Third Party respectively on a quarterly basis showing that any such withdrawals made in the previous quarter have been made for these purposes only.

SECONDARY SCHOOL REBATE

9. The First Party undertakes to pay to the Second Party and the Third Party the Secondary School Rebate on the date occurring two months after the date of ascertainment of the total cost of the Joint Campus. Declaring that the Second Party and the Third Party shall agree how the payment of the said sum shall be shared between them failing which the First Party shall make payment to the Second Party.

PRIMARY SCHOOL PROCUREMENT

10. The First Party binds and obliges itself to complete or procure the completion of the First Phase, when the aggregate number of dwellinghouses for which there has been granted a certificate of completion or certificate of temporary occupation under the 1959 Act on the sites J to N inclusive in the Local Plan together with any Windfall Sites in Dalkeith exceeds 300.

10.1 The First Party binds and obliges itself to complete or procure the completion of the Second Phase, when the aggregate number of dwellinghouses erected on the sites J to N, inclusive, in the Local Plan together with any Windfall Sites in Dalkeith exceeds 1000.

TEMPORARY CLASSROOM ACCOMMODATION

11. The First Party shall be entitled on giving not less than six months' prior written notice to the Second Party, to require the Second Party to pay for the costs of the First Party providing any temporary prefabricated accommodation (but excluding teaching costs, equipment and running costs and maintaining any existing temporary prefabricated accommodation) at Woodburn Primary School, Dalkeith, in relation to the accommodation requirements arising as a direct consequence of the child product of housing developments on the Second Party's land and/or

the Third Party's land; declaring that the First Party shall be required to demonstrate that they have acted with regard to due economy; declaring further that the liability of the Second Party (irrespective of the number of times that the said option is exercised) shall not in total exceed ONE HUNDRED THOUSAND POUNDS (£100,000) Sterling excluding all Value Added Tax for the development of Sites L, M and N.

AFFORDABLE HOUSING

12. The Second Party shall, in order to comply with the First Party's policy for the provision of affordable housing as stated in the Local Plan, build or procure the building of Affordable Dwellinghouses on the Second Party's Land in accordance with the provisions detailed in Clauses 12.1 12.2 and 12.3 below; Declaring that the Second Party shall build or procure the building of at least one half of the number of Affordable Dwellinghouses to be built on the Second Party's Land within 3 years from the date of granting of a certificate of completion under the 1959 Act in respect of the first dwellinghouse built on the Planning Unit and the remaining half within 6 years of the said date.

12.1 The number of Affordable Dwellinghouses to be built by the Second Party on the Second Party's Land within Site L and Site M shall be sixty. Declaring that in the event of planning permission not being granted for the residential development of the Remainder of Site M the number of Affordable Dwellinghouses to be built shall be adjusted by replacing the figure of 60 in the above formula with the figure resulting from the following formula: 60 multiplied by the Net Developable Acreage within the Planning Unit divided by the sum of the Net Developable Acreage of the Planning Unit and the Net Developable Acreage within the remainder of the Site M.

12.2 The Second Party shall ensure that the required number of Affordable Dwellinghouses to be built on the Second Party's Land shall comprise a mix of dwellinghouse types made up as follows:

12.2.1 50% shall be flatted dwellinghouses of which 25% shall be one bedroomed and 75% shall be two bedroomed.

12.2.2 50% shall be non-flatted dwellinghouses of which 25% shall be two bedroomed and 75% shall be 3 bedroomed.

For the avoidance of doubt the number which equates to the percentages stated above shall be rounded up to the nearest whole number if equal to or above 0.5 decimal and shall be rounded down to the nearest whole number if less than 0.5 decimal.

12.3 On submitting the Master Plan to the First Party for approval, the Second Party, acting reasonably, shall give indicative areas within the Second Party's Land to be used for the erection of Affordable Dwellinghouses. This will then be accurately defined in the detailed planning applications.

12.4 The Second Party shall be entitled to sell or dispense any Affordable Dwellinghouse to an Approved Person, subject to the following conditions:

12.4.1 the price shall be a figure equal to 80% of the open market value of the Affordable Dwellinghouse;

12.4.2 the Approved Person undertakes to deliver to the Second Party's Solicitor on the date of settlement (a) a properly executed minute of agreement with the First Party and a properly executed standard security in favour of the First Party in terms of the drafts, mutatis mutandis, annexed as relative hereto, (b) a cheque for the registration dues of the said standard security, (c) a clear search in the personal registers against the Approved Person back for five years and (d), if appropriate a duly sworn or affirmed affidavit by the Approved Person or a duly executed consent by the Approved Person's spouse in respect of said standard security all in terms of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 as amended. The Second Party hereby undertakes to deliver to the First Party all the documents referred to in (a), (b), (c) and (d) above and that within 7 days of the date of settlement. At the option of the First Party, the Second Party shall arrange for the standard security in favour of the First Party to be registered in the Land Register.

12.4.3 the Approved Person shall be entitled to grant a standard security in favour of a substantial UK bank or building society as security for a loan to facilitate the purchase of the Affordable Dwellinghouse but shall not grant any other standard security over the Affordable Dwellinghouse without the prior written consent of the First Party, which consent shall not be unreasonably withheld in respect of a standard security in favour of a substantial UK bank or building society as security for a loan required to refinance the original loan or as further advance subject to the maximum amount secured by the said standard security being not more than 80% of the open market value of the Affordable Dwellinghouse and all other sums due in respect of interest, arrears, penalties and consequences due thereon; and

12.4.4 the Approved Person undertakes never to own more than one Affordable Dwellinghouse at any one time.

12.5 If after two months from the date of commencement of the marketing for sale of an Affordable Dwellinghouse to be built or which has been built on the Second Party's Land no Approved Person has paid a deposit to register his interest in purchasing the Affordable Dwellinghouse in question, then the Second Party shall be entitled to sell that Affordable Dwellinghouse on such terms and conditions as it thinks fit, but subject to the Second Party undertaking to remit a sum equal to 20% of the full sale proceeds, less any Client Extras, of such a dwellinghouse into the Bank Account within 28 days of the date of receipt by the Second Party or its nominees of the full sale proceeds or any proceeds (excepting any deposit) in respect thereof. Declaring that any monies received by the First Party as aforesaid shall be used for the purpose of providing or facilitating the provision of Affordable Housing in Dalkeith. Declaring further that the First Party shall if required by the Second Party provide a written declaration signed by the Proper Officer of First Party confirming that any said monies will be used for the said purpose.

12.6 In the event that there is an approval of reserved matters pursuant to an application for outline planning permission under the Planning Act for residential development or the grant of detailed planning permission under the Planning Act on either the Remainder of Site M and/or Site N and the Second Party has built Affordable Dwellinghouses on the Second Party's Land but there remains a number of Affordable Dwellinghouses to be built by the Second Party to comply with its obligation to provide affordable housing in terms of this Agreement, then the Second

Party may apply to the First Party for consent to a variation of this Agreement as provided for in terms of Clause 16 below (which consent shall not be unreasonably withheld or delayed having regard to the objective of the First Party to ensure that the Second Party builds or procures the building of the said 60 Affordable Dwellinghouses), to the effect that the number and type of Affordable Dwellinghouses remaining unbuilt on the Second Party's Land be transferred to either the Remainder of Site M or Site N or both and the First Party may agree to such a variation subject to entering into a Section 75 Agreement to ensure the provision of the required number of affordable dwellinghouses on either the remainder of Site M or Site N or both.

12.7 Notwithstanding the specified numbers of Affordable Dwellinghouses referred to in Clauses 12.1 and 17 of this Agreement and Clause 11 of Agreement 2, it is hereby provided that in the event of the aggregate number of dwellinghouses permitted to be built on Sites L, M and N exceeding 825 then the number of Affordable Dwellinghouses to be built on Sites L, M and N shall be the number (rounded up to the nearest whole number if equal to or above 0.5 decimal and rounded down to the nearest whole number if less than 0.5 decimal) equal to 10% of the aggregate number of dwellinghouses permitted to be built on Sites L, M and N. In such an event any additional requirement for Affordable Dwellinghouses to that specified in Clauses 12.1 and 17 of this Agreement and Clause 11 of Agreement 2 shall be provided by the Second Party, who shall be entitled on giving at least 7 days notice to the First Party, to determine whether such additional Affordable Dwellinghouses shall be built on Site L, M or N.

BOND

13. In security of performance of the obligations by the Second Party and the Third Party to pay the Dwellinghouse Payment 1, the Dwellinghouse Payment 2 and the Dwellinghouse Payment, the cost of providing temporary classroom accommodation and the balancing payment (but specifically excluding the obligation to make the Initial Payment and to build every Affordable Dwellinghouse) the Second Party shall, prior to the Second Party and/or the Third Party carrying out any material operations as defined in Section 27 of the Planning Act, deliver the Bond to the First Party. The sum to be guaranteed in said Bond shall be TWO MILLION FIVE HUNDRED THOUSAND POUNDS (£2,500,000) Sterling. Declaring that the sum to be guaranteed in the said Bond shall reduce by an amount equal to (1) each Dwellinghouse Payment 1 and/or Dwellinghouse Payment 2 when these are made, respectively in accordance with Clauses 5 and 5.1 of this Agreement and the RICS Uplift Payment due and any payment made in respect of Clause 11 of this Agreement and (2) each Dwellinghouse Payment and the RICS Uplift when these are made in respect of Clause 4 of the Agreement 2.

13.1 The sum of £2,500,000 to be referred to in the Bond is based on the best estimates of the maximum sums due by the Second Party and the Third Party to the First Party under this Agreement and Agreement 2. On each and every anniversary of the last date of execution of this Agreement (16 December 2003) the Second Party shall be entitled to have the quantum of the Bond reduced by the amount of any payments made under this Agreement and the Agreement 2 (but for the avoidance of doubt excluding therefrom the Initial Payment and any payments received by the First Party under the provisions of this Agreement relating to Affordable Housing). In such events the Second Party shall deliver a substitute bond (hereinafter referred to as "the Substitute Bond") to the First Party on mutatis mutandis the same terms as the Bond, subject to the reduction in quantum as provided for in this clause. In exchange for delivery of the Substitute Bond, the Bond will be returned forthwith to the Second Party.

13.2 The Bond or the Substitute Bond shall be returned immediately to the Second Party when (1) all of the Dwellinghouse Payment 1 and Dwellinghouse Payment 2 due to the First Party have been paid to the First Party and there remains no outstanding liability arising from the provision contained in Clause 11 of this Agreement and (2) all of the Dwellinghouse Payment due by the Second Party have been paid to the First Party.

13.3 It is specifically provided that no material operations as defined in Section 27 of the Planning Act shall be permitted to commence on either the Second Party's land or the Third Party's land unless and until the Bond as validly executed on the basis hereinbefore described has been delivered to the First Party.

DISCHARGE

14. On completion of all of the obligations of the Second Party and/or the Third Party under this Agreement, the First Party shall grant a Discharge of all the obligations of the Second Party and/or the Third Party under this Agreement which discharge(s) shall be recorded in the Division of the General Register of Sasines for the County of Midlothian or Land Register (as appropriate).

EFFECT OF AGREEMENT

15. This Agreement shall have effect and shall be binding on the First Party, the Second Party, the Third Party and the Bank unless (1) Planning Permission is revoked by the First Party or (2) Planning Permission is quashed by the Court of Session or other Court on the application of the First Party or any third party not associated with the Second Party and/or the Third Party. In either of said events (1) or (2), the First Party shall forthwith refund the Initial Payment ("Refund of Initial Payment") to the Second Party together with interest thereon at the rate of 4% above the base lending rate (from time to time) in force of the Bank (or its successors or other comparable financial institution). Declaring that no Refund of Initial Payment shall be made in the event that the Second Party and/or Third Party are entitled to implement the Planning Permission and/or the Planning Permission 1 and/or Planning Permission 2 enabling them to complete 200 Dwellinghouse 1 or Dwellinghouse 2 or Dwellinghouse. In the event that the Second Party and/or the Third Party are entitled to implement the Planning Permission and/or Planning Permission 1 and/or Planning Permission 2 enabling them to complete less than 200 Dwellinghouse 1 or Dwellinghouse 2 or Dwellinghouse then the Refund of the Initial Payment shall be reduced by the sum of £5000 for each Dwellinghouse 1 or Dwellinghouse 2 or Dwellinghouse that Second Party and/or Third Party are able to complete.

AMENDMENT TO AGREEMENT

16. The Parties hereto may agree at any time, in writing, to vary or amend this Agreement and in such an event the variation or amendment shall be set forth in an appropriate Minute of Variation or Amendment in probative form and recorded in the said Division of the General Register of Sasines and/or Land Register (as appropriate).

REMAINDER OF SITE M AND THE WHOLE OF SITE N

17. Whereas the Remainder of Site M and the whole of Site N are outwith the Planning Unit and are in the heritable proprietorship of the Second Party, the First Party undertakes that in respect

to (1) the Remainder of Site M it will require the Second Party to make a payment towards the Works equivalent to but not in excess of the Dwellinghouse Payment 1 and RICS Uplift Payment as a prerequisite to the grant of planning permission for the erection of residential accommodation; declaring, for the avoidance of any doubt that no further payment or contribution in respect of the Works will be sought from the Second Party in respect of the development of the Remainder of M and (2) Site N it will require the Second Party to make (a) a payment towards the Works equivalent to but not in excess of the Dwellinghouse Payment 1 and RICS Uplift Payment and (b) provide an obligation on the Second Party to build 23 Affordable Dwellinghouses or the number (rounded up to the nearest whole number if equal to or above 0.5 decimal and rounded down to the nearest whole number if less than 0.5 decimal) equal to 10% of the number of dwellinghouses permitted to be built on Site N in terms of the detailed planning permission therefor, whichever is the greater number, as a prerequisite to the grant of planning permission for the erection of residential accommodation; declaring that the terms of Clause 12 of this Agreement shall (subject to the substitution of an obligation to build 23 Affordable Dwellinghouses as aforesaid) apply mutatis mutandis to the planning agreement for Site N. Declaring further and for the avoidance of doubt that no further payment or contribution will be sought from the Second Party in respect of the development of Site N, other than items or works that fall to be provided under the terms of the Planning Permission, the Planning Permission 1, the Planning Permission 2 and the planning permission which the First Party has resolved to grant in respect of Site N (the application for which is identified in the Planning Register by the number 01/00609/OUT).

ENTITLEMENT TO REMEDY

18. The Second Party and the Third Party agree that in the event of a breach or continued breach by either of them in terms of this Agreement, the First Party shall be entitled to exercise any remedies available to it at common law or under Statute.

18.1 The First Party agrees that in the event of a breach or continued breach by it of this Agreement the Second Party and/or the Third Party shall be entitled to exercise any remedies available to them at common law or under statute.

DEED OF RESTRICTION

19. On payment of the Initial Payment in accordance with the Clause 4 above the First Party shall on demand (and at the option of the Second Party or the Third Party, whichever is applicable) either issue a Deed of Restriction or give its consent in gremio of any deed transferring title to a Bona Fide Third Party Purchaser for any Dwellinghouse 1 nominated by the Second Party or any Dwellinghouse 2 nominated by the Third Party. Declaring for the avoidance of doubt that the Second Party and the Third Party shall only be entitled to demand a Deed of Restriction or consent in gremio as aforesaid without making a Dwellinghouse payment 1 or Dwellinghouse payment 2 until the Dwellinghouse Payment Event occurs. Declaring that in the event of the Second Party and the Third Party failing to agree as to which Dwellinghouse 1 or Dwellinghouse 2 are to be nominated in terms of this clause then the Second Party shall have the exclusive right to nominate only Dwellinghouse 1 until the Dwellinghouse Payment Event occurs.

19.1 The First Party shall, in exchange for any Dwellinghouse 1 Payment (and at the option of the Second Party) either issue a Deed of Restriction or provide its written consent in gremio of

any deed transferring title to a Bona Fide Third Party Purchaser for any Dwellinghouse 1 nominated by the Second Party, for which a Dwellinghouse Payment 1 has been made.

19.2 The First Party shall in exchange for any Dwellinghouse Payment 2 (and at the option of the Third Party) either issue a Deed of Restriction or provide its written consent in gremio of any deed transferring title to a Bona Fide Third Party Purchaser for any Dwellinghouse 2 nominated by the Third Party for which a Dwellinghouse Payment 2 has been made.

NUMBER OF HOUSES TO BE BUILT

20. The Second Party and the Third Party jointly undertake that they will use their reasonable endeavours to erect or procure the erection of the number of houses on the Planning Unit commensurate with the erection of 600 dwellinghouses on Sites L and M.

BALANCING PAYMENT REFUND

21. In the event that it is not reasonably practicable for the Second Party and/or Third Party to erect 600 dwellinghouses on Sites L and M and it is established when the houses to be erected on Sites J to N (inclusive) in the Local Plan have been erected, that the number of houses is greater than the number anticipated in the Local Plan, then a balancing payment refund will be made to the Second Party and/or the Third Party on the following basis; Any payments received by the First Party equivalent to the Dwellinghouse Payment 1 and the Dwellinghouse Payment 2 in respect of houses erected in excess of 1225 (the number anticipated in the Local Plan on Sites J to N, inclusive and the windfall sites at St. David's High School and Dalkeith High School) will be aggregated and divided between those parties who have erected a number of houses on their sites less than the number for which they have made payments equivalent as aforesaid to the First Party and that in proportion to the number of excess payments made by each party. The First Party will pay to the Second Party the balancing payment refund within 14 days of the date of issue of the certificate of completion or the certificate of temporary occupation under the 1959 Act in respect of the last house to be completed on Sites J to N (inclusive) and the windfall sites at St. David's High School and Dalkeith High School.

TRAFFIC REGULATION ORDER

22. The First Party hereby undertakes to make the Traffic Regulation Order before 16 October 2004 in the event that the road construction consent has been granted, under the Roads (Scotland) Act 1984 (including any amendment or re-enactment thereof), for the new road to be constructed which will connect Cowden Road, Dalkeith to the A68 trunk road and is indicatively shown coloured red on the plan annexed to the Traffic Regulation Order.

ARBITRATION

23. Any dispute of any kind which may arise between the First Party, the Second Party, the Third Party and the Bank regarding this Agreement shall be referred to the decision of an Arbiter to be mutually agreed by the disputing parties and failing agreement as to such appointment, appointed by the Sheriff of the Lothian and Borders at Edinburgh on the application of any of the said Parties to this Agreement and the decision of such Arbiter, including any award of expenses, shall be final and binding on the disputing parties and failing such award of expenses the cost of any such arbitration shall be borne equally by the disputing parties.

ISSUE OF PLANNING PERMISSION

24. Planning Permission shall be issued by the First Party to the Second Party's planning agents, namely, Montagu Evans, 37 Melville Street, Edinburgh, EH3 7JF (with a copy thereof being provided by the First Party forthwith to the Third Party) following upon the production of evidence of the date of (1) recording of this Agreement in the Division of the General Register of Sasines for the County of Midlothian and (2) registration in the Land Register (declaring that written acknowledgement from the Keeper of receipt of this Agreement shall be sufficient evidence for the purpose of this clause).

RESTRICTION ON DISPOSAL

25. The Second Party and the Third Party, shall not assign, burden, charge, dispone, lease, convey or otherwise dispose of their respective interests in the Planning Unit or any part thereof prior to the (1) recording of this Agreement in the said Division of the General Register of Sasines and (2) registration of the Agreement in the Land Register which recording and registration shall take place as soon as practicable after the last date of execution of this Agreement.

ENFORCEMENT

26. This Agreement shall be enforceable at the instance of the First Party or its successors not only against the Second Party but also against its successors in title to the Second Party's land; declaring that this Agreement shall not be enforceable against any Bona Fide Third Party Purchaser; declaring further that at no time or under any circumstances shall the Second Party become liable to the First Party for the Third Party's obligations arising under this Agreement in respect of the Third Party's land, which shall remain solely a contractual matter between the First Party and the Third Party.

26.1 This Agreement shall be enforceable at the instance of the First Party or its successors not only against the Third Party but also against its successors in title to the Third Party's land; declaring that this Agreement shall not be enforceable against any Bona Fide Third Party Purchaser; declaring further that at no time or under any circumstances shall the Third Party become liable to the First Party for any obligations arising under this Agreement in respect of the Second Party's Land or the Second Party's Other Land, which shall remain solely a contractual matter between the First Party and the Second Party.

NOTICES

27. Any notice or other document required to be given or served by the First Party, whether before or after termination of this Agreement, may be given or served by sending same by first class recorded delivery post to the registered office of either Second Party or the Third Party or the Bank which ever is appropriate. Any notice sent by first class recorded delivery post shall be deemed to have been duly served at the expiry of forty-eight hours after the time of posting. In proving service it shall be sufficient to prove that the envelope containing the notice was addressed to the Second Party or the Third Party at their registered offices as the case may be and posted to the place to which it was addressed.

27.1 Any notice or other document required to be given or served by the Second Party or the Third Party or the Bank, whether before or after the date of termination of this Agreement, may be given or served by sending same first class recorded delivery post to the First Party thus:

Director Corporate Services,

Midlothian Council,

Midlothian House,

Buccleuch Street,

Dalkeith, EH22 1DN.

Any notice sent by first class recorded delivery post shall be deemed to have been duly served at the expiry of forty-eight hours after the time of posting. In proving service it shall be sufficient to prove that the envelope containing the notice was addressed to the First Party as above and posted to the place to which it was addressed.

LAW

28. This Agreement shall be governed and construed in accordance with the Laws of Scotland.

This is the Schedule referred to in the foregoing Minute of Agreement among The Midlothian Council, Pentland Limited, The Royal Bank of Scotland plc and Grange Estates (Newbattle) Limited.

1. A two-stream primary school (with nursery classes) to be located adjoining the Joint Campus.
2. The erection of non-denominational secondary school on the Joint Campus to replace the Dalkeith High School within which new school additional capacity is to be provided to accommodate the children resulting from the residential development of the planning unit.
3. The erection of a denominational secondary school on the Joint Campus to replace the St. David's High School within which new school additional capacity is to be provided to accommodate the children resulting from the residential development of the planning unit.
4. Dalkeith town centre improvements.
5. Local recreational/community facilities (to be provided in the Joint Campus).
6. A swimming facility, (to be provided in the Joint Campus).

This is the Decision Notice referred to in foregoing Minute of Agreement among The Midlothian Council, Pentland Limited, The Royal Bank of Scotland plc and Grange Estates (Newbattle) Limited.

Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 99/00188/OUT

Montagu Evans,

37 Melville Street,

Edinburgh,

EH3 7JF.

Midlothian Council, as Planning Authority, having considered the application by Buccleuch Estates Ltd., Estate Office, Bowhill, Selkirk, TD7 5ES, which was registered on 20 April 1999, in pursuance of their powers under the above Acts, hereby grant outline planning permission to carry out the following proposed development:

Residential development on land at Wester Cowden/Thornycroft, Dalkeith, Midlothian (Site L and Part of Site M, Finalised Midlothian Local Plan) in accordance with the application and plans returned and endorsed as relative to this permission. This permission is subject to the conditions set out in the attached Schedule. The development brief for the site referred to in condition 5 accompanies this permission and is attached herewith.

Development Control Manager

Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZQ

Schedule of conditions forming part of the permission for planning application reg. no. 99/00188/OUT.

1. Before any part of the development is begun, details of the following shall be submitted to and approved in writing by the Planning Authority.

(a) A Master Plan for the whole of the application site, extending to the rest of Housing Site M in the Modified Finalised Midlothian Local Plan (February 2003) and also, in not less than outline form, to Housing Site N in the same local plan.

(b) A programme for the construction of houses (including a phasing plan) and providing the main infrastructure (roads, drainage, water and footpaths and cycleways) required of the development, the landscape framework and principal open spaces, together with their associated equipped play areas and playing surfaces.

(c) An archaeological assessment for the southern part of the site, together with proposals for any archaeological investigation and treatment of the site consequent to assessment and including a programme for carrying out such work.

(d) Proposals for treatment of any shafts, adits or other evidence of previous mineral workings, together with a programme for carrying out the works.

(e) Proposals for providing local retail and other facilities to serve the site, together with a programme for providing these.

(f) A survey of existing trees on the site, which shall provide details of any works required to be carried out for the health of trees recommended for retention in addition to a list of the trees which require to be removed for reason of their condition or to make room for those recommended to be retained.

(g) Proposals showing how it is intended to accord with the Council's policies DP7, Percent for Art and WAST4, together with programmes for providing such facilities.

(h) A noise assessment of the site.

Reason for Condition 1(a): a master plan is required to show the manner in which it is intended to develop the whole site: the plan is required to extend in detail to the remainder of the local plan Site M and at least in outline, to the Site N, to confirm the proposals within the application site do not prejudice the successful planning of these other areas of land also proposed or reserved for housing purposes on adjoining land.

Reason for Condition 1(b): to confirm when the various major features of the development are to be provided.

Reason for Condition 1(c): archaeological remains have been recorded in part of the site and the extent of these require to be established to ensure no archaeological material is unnecessarily lost to future generations.

Reason for Condition 1(d): to ensure any potential danger from former mine and quarry workings are removed from the site.

Reason for Condition 1(e): to ensure that local facilities are available commensurate with the size of the development.

Reason for Condition 1(f): to accurately record what trees are on the site.

Reason for Condition 1(g): to accord with the provisions of the Modified, Finalised Midlothian Local Plan.

Reason for Condition 1(h): to ensure that the development takes account of potential sources of noise nuisance to the new houses and provides satisfactory means of mitigation.

Reserved Matters

2. Before any part of the development is begun applications, together with the requisite plans, for the approval of the following reserved matters shall be submitted to and approved in writing by the Planning Authority.

(a) A landscape scheme, including details of the size, density and species of all trees and shrubs to be planted and retained to provide a landscape framework for the whole of Sites L, M and N in the Modified Finalised Midlothian Local Plan (February 2003), together with details of off-site tree

planting required by the terms of section 8 of the development brief which is attached to this permission. The scheme shall include proposals for the long-term maintenance of these planted areas.

(b) Proposals for the construction of a distributor road between the A68 and Thornybank Lane, which is required by the terms of the development brief attached to this permission, including details of proposed roundabouts, junctions, pedestrian crossings and the upgrading of Thornybank Lane, between its junction with the new distributor road and Thornybank Industrial estate to the northwest, together with all measures for noise attenuation between the road and existing and proposed housing and details of the proposed landscaping of the new road.

(c) Proposals for the treatment of Thornybank Lane following the closure of its junction with the A68, including a programme for carrying out this work.

(d) Proposals for works to the A68 as required by the trunk road authority, together with written confirmation of that authority's approval of the said works. The works shall comprise the following.

(1) The provision of a new roundabout junction on the A68, generally as shown in Drawing 4758-002 and included in the applicant's Traffic Assessment of March 2001.

(2) The stopping up of the existing junction of Thornybank Road and the A68 Lauder Road.

(3) The upgrading of the existing junction of Easthouses Road and the A68 Lauder Road by the installation of traffic signals, generally as shown in drawing No. 4758-001 and included in the Traffic Assessment of March 2001.

(4) Upgrading of the existing junction of Newmills Road, London Road and Lauder Road by the installation of traffic signals.

Reason for Condition 2(a): to ensure a landscape programme for the whole site, which forms part of a larger area proposed to be developed by the applicant, can be progressed at an early date and thereafter be properly maintained.

Reason for Condition 2(b): to ensure that consideration of the design and appearance of the road can take account of proposed attenuation measures and landscaping and to ensure these details are satisfactory.

Reason for Condition 2(c): to ensure the proposals for closing the road are satisfactory in appearance.

Reason for Condition 2(d): to ensure the development does not have an adverse effect on the functioning of the trunk road.

3. Prior to the commencement of any phase of development approved in terms of Condition 1(b) above which lies within Site M of the Finalised Midlothian Local Plan (February 2003), an application for the Approval of Reserved Matters shall be submitted to and be approved by the Planning Authority for the construction of the spine road which is to connect the proposed distributor road, approved in terms of Condition 2(b) above and the B6414 to the north. The

information to be provided with the application shall include details of all proposed roundabouts, junctions, pedestrian crossings, traffic calming and associated landscaping.

Reason: to ensure that the design of the road is considered as a whole and that its construction within the application site does not prejudice the provision of a satisfactory road alignment in the remainder of Site M and Site N.

4. Prior to the commencement of any phase of development, approved in terms of Condition 1(b) above, an application for approval of reserved matters, including fully detailed drawings of that phase shall be submitted to and be approved by the Planning Authority. The following information shall be provided with the application.

(a) A site layout plan at a scale no smaller than 1:500 showing the position of all proposed buildings, including affordable housing as defined in the legal agreement between the Planning Authority and the land owner and to which this site is subject, open spaces, equipped play areas, roads, cycle paths and footways, parking areas, walls, fences and landscaping.

(b) Details, including provision for their future maintenance, of all open spaces, equipped play areas and proposed playing surfaces. The details shall include proposed gradients, drainage and seed mix proposals for grassed areas.

(c) Plans and elevations of each house and garage type with details of the type and colour of all materials proposed for external surfaces.

(d) Details of visibility splay areas at all road junctions and road and cycleway junctions.

(e) Details of the appearance of all walls, retaining walls and fences together with a programme for when these are to be erected.

(f) Details of a scheme of landscaping, which shall include;

(1) The position, number, size and species of all trees and shrubs that are proposed to be planted.

(2) A tree survey, shown on a plan to a scale not less than 1:500, providing the position, species and condition of all trees within the site together with details of those to be retained and those proposed for removal.

(3) A Landscape statement explaining the intended effect of plant selection.

(4) A drawing showing details of temporary protective fencing that is to be erected around all trees that are to be retained. The details shall include the position of the fencing and its construction.

(5) Proposals for ensuring the future maintenance of all areas of landscaping which are to be communally maintained, as approved in terms of Condition 4(g) below.

(g) A plan showing the extent of land that is to be sold in association with each house and the extent of all areas of landscaping and open space that is to be communally maintained.

(h) Details of all proposed levels and changes in ground level. The information to be provided shall include floor levels for all buildings, roads and finished ground levels. A contour plan of the site with contours drawn at intervals of 0.5 metre shall be provided showing, at a scale no smaller than 1:500, both proposed and existing contours.

(i) A plan of the site to a scale no smaller than 1:500 showing the position of all existing and proposed underground services including water supply pipes, sewers, gas supply pipes, electricity cables and telephone wires.

(j) Details of the position and design of all street lights.

(k) Details of the type and colour of all finishes for hard-surfaced areas.

(l) Details of traffic calming features, transition zones where access road meets mixer court and details of road surfaces and kerbs.

(m) A Green Transport Plan, together with a programme for its implementation.

(n) Details of the proposals in respect of policies DP7 and WAST4 approved in terms of condition 1(g) above, as they apply to this phase of the development, together with programmes for their implementation.

(o) Details of the means of disposal of surface water.

(p) Details of the proposed site works compound, parking for construction workers' cars, any sales office and associated customer parking area.

(q) A statement explaining the proposed development's conformity with the development brief, with regard to design, sustainability, landscape and open space.

Reason: to provide sufficient and appropriate information on the proposal to ensure that, in its detailed form it will conform with the Council's policies for design, sustainability, landscape and design.

Development Brief

5. The development shall accord with the terms of the development brief attached to this permission. Minor variation to the terms of the brief may be permitted subject to the Council being satisfied that both individually and accumulatively such variations will not undermine the principles, objectives and general requirements set out in the brief or the Council's qualitative expectations for the development.

Reason: to clarify the status of the planning brief and to make clear the planning authority's intentions as to the manner in which the site is to be developed as advocated in NPPG3 Land for Housing.

Master Plan

6. The Master Plan approved in Condition 1(a) above shall accord with the terms of the development brief and shall provide the following information.

(a) The areas of the site to be laid out for housing, including affordable housing, character zones and areas of improved quality and open space for amenity, sport and recreation and commercial and retail facilities.

(b) An indication and illustration of the physical form of the housing.

(c) The density of development.

(d) Height of buildings and type of materials to be used.

(e) Open space, proposals for play and physical recreation, roads, including potential bus routes, pedestrian and cyclist paths.

(f) A scheme of strategic landscaping showing shelter belts and other proposed landscape features, together with a programme for its implementation.

(g) Water features, if proposed in association with SUDS.

(h) A contour plan at intervals of no greater than one metre.

(i) Local facilities (e.g. shops) to be provided within the application site, or elsewhere within Sites N and M of the Modified Finalised Midlothian Local Plan (February 2003).

(j) The phasing and timing of the development.

Reason: to clarify the Council's requirements for the content of the Master Plan and to accord with Government advice, as provided in "Designing Places".

7. Each phase of the development shall accord with the provisions of the Master Plan, approved in terms of Condition 1.

Reason: to ensure that the overall intentions for the development expressed in the Master Plan are realised as the development progresses.

8. The Master Plan to be submitted in terms of Condition 1 shall demonstrate that 825 houses may be accommodated satisfactorily within the boundaries of the local plan Sites L, M and N.

Reason: to ensure that the development meets the expectations of the Lothian Structure Plan 1994 and Modified, Finalised Midlothian Local Plan (February 2003).

Implementation Programmes

9. Other than with the prior written agreement of the Planning Authority, the development hereby granted permission shall be carried out in accordance with the programmes approved in terms of Conditions 1(b), 1(c), 1(d), 1(e), 1(f), 1(g), 2(c), 4(e), 4(m) 4(n) and 6(j). Any part of the

development for which a variation to the programme has been so agreed shall be implemented in accordance with the terms of the revised approved programme.

Reason: to ensure that the authorised works are carried out within an agreed time period.

Water Infrastructure

10. Prior to the commencement of works for the erection of any houses in that part of the site to the north of Thornybank Lane, there shall be submitted to the Planning Authority confirmation that the necessary infrastructure for the distribution of water has been provided or measures are in place for its implementation.

Reason: to ensure that essential infrastructure is available to allow the development to proceed.

Paths to the Campus

11. The proposals for cycle ways and pedestrian paths approved in terms of Condition 1 shall include paths between the proposed school campus and the northern boundary of the site.

12. The paths and cycle ways required in terms of Condition 11 shall be completed and available for use prior to the occupation of any house.

Reason for Conditions 11 and 12: to ensure that safe pedestrian and cycle routes are available to children between the new school and their homes.

Trees and Landscaping

13. Without the prior written approval of the Planning Authority, no existing trees or hedges shall be felled or be removed within the site.

14. The works identified as being required for the health and well being of existing woodland, resulting from the survey approved in terms of Condition 1(f) above, shall be carried out within one year from the commencement of the development or such other period or periods as may be approved in writing by the Planning Authority.

15. The temporary protective fencing approved in terms of Condition 4(f)(4) above shall be erected before any work within that phase of development commences and it shall be retained until that phase is completed. Within the area enclosed by the fencing there shall be no excavation, no removal of soil, no placing of additional soil, no storage of any kind, nor disposal of any waste.

Reason for Conditions 13, 14 and 15: to protect trees and hedgerows within the site and to ensure the health of existing important trees is safeguarded.

16. The scheme of landscaping approved in accordance with Condition 2(a) shall be carried out and completed within six months of the date on which work on the development is begun or in accordance with any phasing for this work approved in writing by the planning authority. Any trees or shrubs removed, dying, severely damaged or seriously diseased within five years of

planting shall be replaced in the following planting season by trees or shrubs of a size and species similar to those originally required.

17. The scheme of landscaping approved in accordance with Condition 4(f) shall be carried out and completed within six months of the date on which work on that phase of the development is begun. Any trees or shrubs removed, dying, severely damaged or seriously diseased within five years of planting shall be replaced in the following planting season by trees or shrubs of a size and species similar to those originally required.

Reason for Conditions 16 and 17: to ensure that the landscaping is carried out and is successfully established.

18. Maintenance of all open space and landscaping outwith the curtilages of the houses shall be undertaken in accordance with proposals approved in terms of Conditions 1(f), 2(a), 4(b) and 4(f) (5).

Reason: to ensure that the landscaping and open spaces are properly maintained.

Open Space and Play

19. The selection of species of trees, shrubs and grass seed, together with the methods of ground preparation and planting, shall all be appropriate to the intended use of the open space and accord with the relevant British Standard.

Reason: to ensure that these areas are established both successfully and quickly and are able to be used for their intended purpose without undue maintenance.

20. Where spaces are intended and designed for ball games, detailed proposals for these spaces shall include provision of football posts. Ball catch nets or fencing shall also be provided where appropriate in the interests of road safety or residential amenity.

Reason: to ensure that appropriate play and sporting equipment is provided timeously and in the interests of road safety and residential amenity.

21. Unless otherwise agreed in writing by the Planning Authority, the installation of football posts, together with any associated catch netting or fencing and equipped play areas (epas) in open spaces shall be carried out prior to the occupation of any house that adjoins or immediately overlooks these open spaces. Evidence shall be submitted to the Planning authority, prior to the occupation of such houses by their first residents, that these residents have been informed of the intended location of such equipment.

Reason: to ensure that play and sporting equipment is provided timeously and that information as to the intended location of proposed equipped play areas and football posts is made available to prospective occupants of new houses in order to minimise any future adverse reaction from these residents to the provision of such equipment.

22. The finished ground levels of all open spaces approved in terms of Condition 4(h) above shall be completed prior to the occupation of any house adjoining the open space.

Reason: to ensure that open spaces are provided timeously and to avoid the adverse impact on amenity of earth moving vehicles operating next to houses.

23. All of the communally-maintained open space and landscaped areas, together with any foot or cycle ways not adopted by the Council, which are approved in terms of this permission shall be retained in use for these purposes, for communal use or enjoyment during such time as the houses hereby permitted remain on the site; nor shall any such open space, landscaped area, foot or cycleway be enclosed without the prior approval of the planning authority.

Reason: to ensure that occupants of the houses enjoy an acceptable level of amenity and that features designed as communal amenities are not readily denied to future residents of the site.

Roads and Footpaths

24. Before any dwelling within the development hereby permitted is occupied:

(a) the distributor road, serving the development and approved in terms of Condition 2(b) above shall be open to use by the public;

(b) the works approved in terms of Condition 2(c) above, to close the junction of Thornybank Lane and the A68, shall be completed;

(c) the works required by the Trunk Road Authority and approved in terms of Condition 2(d) above are completed; and

(d) it shall be served by a road and footpath connected to or forming part of the public highway and have access to a parking space constructed and provided in accordance with details approved in terms of this permission.

Reason for Conditions 24(a), 24(b) and 24(c): to ensure that the development has convenient and appropriate access to the primary road network and that any measures required to accommodate this additional traffic on the network is carried out timeously.

Reason for Condition 24(d): to ensure that at all times residents have safe and convenient access to their houses and to the parking space provided for their property.

25. The distributor road shall not be opened to use by the public in advance of the noise attenuation measures approved in terms of condition 2(b) above, having been completed.

Reason: to ensure that residents are not subjected to increased traffic noise to an unacceptable extent.

26. All access roads, footpaths and cycleways, mixer courts and other hard-surfaced areas shall be finished in accordance with details approved in terms of Conditions 2(b), 3 and 4(a) above.

Reason: to ensure that the surfacing materials form a satisfactory part of the overall design of the external environment.

Walls and Fences

27. Those walls or fences that are approved in terms of Condition 4(a) above and that adjoin the curtilage of any house shall be erected before the said house is completed or occupied.

Reason: to ensure adequate privacy for residents and screening of private areas from public view.

28. No wall or fence shall be erected within the site unless details of its position and appearance have been approved in terms of Condition 4(e).

Reason: to ensure that all walls and fences are positioned and designed in keeping with the design of the development as a whole.

Hours of Construction

29. Unless otherwise approved in writing by the planning authority, construction of the development hereby permitted shall not take place:

(a) outwith the hours of 7.00 am to 6.00 pm on Mondays to Fridays; or

(b) outwith the hours of 7.00 am to 1.00 pm on Saturdays; or

(c) at any time on Sundays.

Reason: to minimise disturbance to nearby residential property from noise, traffic, air pollution and light pollution.

Utilities

30. No electricity substation shall be erected within the site unless details of its position and appearance have been submitted to and approved in writing by the Planning Authority and any substation which is required shall be so located or have a means of enclosure, as to prevent it having an adverse impact on the design and appearance of any open space or adjoining property.

Reason: to ensure that any substation is unobtrusive and not unduly close to any occupied building.

31. No street lights nor any footpath lighting shall be erected other than that which is designed and located in accordance with details approved in terms of Condition 4(k) above: the design of the lighting columns and their positioning shall take account of the design requirements of the site and in particular in areas of improved quality and along recreational footpaths.

Reason: to ensure that lighting is of satisfactory appearance and does not conflict with approved landscaping proposals.

32. Unless otherwise approved in writing by the Planning Authority, no underground services shall be introduced into the site except in the positions approved in terms of Condition 4(j).

Reason: to ensure that underground services are not located where they would prevent establishment of the landscaping required by the terms of this consent.

33. Without the prior written permission of the Planning Authority, no overhead wires, cables or telecommunication masts shall be introduced onto the site, nor retained on the site.

Reason: to ensure that the appearance of the development is not spoiled by inappropriately located telecommunication masts, overhead wires or cables and support poles.

Time Limit to the Permission

34. Application for approval of reserved matters as required by Conditions 2, 3 and 4 shall be made to the Planning Authority within three years from the date of this permission.

35. The development hereby permitted shall be begun within five years from the date of this permission or within two years from the date of approval by the Planning Authority of the last of the reserved matters to be approved.

Reason for this and the preceding Condition: to accord with Section 59(2) of the Town & Country Planning (Scotland) Act 1997.

This is the Draft Minute of Agreement referred to in the foregoing Minute of Agreement among The Midlothian Council, Pentland Limited, the Royal Bank of Scotland Plc and Grange Estates (Newbattle) Limited.

MINUTE OF AGREEMENT between THE MIDLOTHIAN COUNCIL incorporated under the Local Government etc. (Scotland) Act 1994 and having their headquarters at Midlothian House, Buccleuch Street, Midlothian (hereinafter referred to as "the Council") ON THE ONE PART and xxxxxxx (hereinafter referred to as "the purchaser") (Declaring that references to the masculine gender herein include the feminine and that if the purchaser comprises more than one person the use of the singular herein includes the plural and all obligations of the purchaser herein are undertaken jointly and severally by persons comprising the purchaser) ON THE OTHER PART

WHEREAS Pentland Limited, incorporated in the Cayman Islands and having its Registered Office at Midland Trust Building, P.O. Box 1109, Grand Cayman, British West Indies (hereinafter referred to as "the developer") has sold to the purchaser the dwellinghouse known as xxxx (hereinafter referred to as "the property") in terms of an affordable housing scheme agreed between the developer and the Council at a price of xxxx (£xxx) (being Eighty per cent of the current open market of the property as agreed between the parties) on condition that the purchaser enters into this Agreement with the Council and grants a Standard Security over the property for the purchaser's obligations hereunder; NOW THEREFORE the parties have agreed and do hereby agree as follows:-

FIRST

The purchaser binds and obliges himself and his executors and representatives, whosoever, all jointly and severally, to pay to the Council at or prior to the occurrence of any payment event (as hereinafter defined) a sum equal to one-fifth of the current open market value of the property (with vacant possession) at the date of such payment being made.

SECOND

In this Agreement:

(One) a "payment event" means any one or more of the following events:-

- (a) The transfer of the property or part thereof whether by sale or gift or succession or in any other way to a third party other than the spouse of the purchaser;
- (b) (If the purchaser is one individual and dies without a surviving spouse or the property does not pass to any such surviving spouse as aftermentioned) the death of the purchaser;
- (c) (If the purchaser is one individual and on the death of the purchaser the property passes in terms of his Will or otherwise under the law of succession to his surviving spouse) the death of that spouse;
- (d) (If the purchaser comprises more than one person) the death of the survivor of such person;
- (e) The purchaser or any surviving spouse of the purchaser ceasing to use the property as his only place of residence or renting the property or allowing it to be occupied by anyone other than his immediate family;
- (f) The purchaser or any surviving spouse of the purchaser granting any Standard Security over the property or any part thereof other than (1) any Standard Security in favour of the Council and (2) any Standard Security referred to in any Standard referred to in favour of the Council.
- (g) Any security holders calling up their security or any other party exercising any other process of law which would affect the property;
- (h) Any default under any Standard Security by the purchaser or the spouse of the purchaser (as the case may be) in favour of the Council.

THIRD

For the purposes of ascertaining the sums due by the purchaser or any surviving spouse of the purchaser:-

(One) Any alterations, additions, improvements or extensions to the property which have been made by the purchaser after the date of execution of these presents and the occupation of the property by the purchaser or others shall be disregarded for the purposes of ascertaining or determining the current open market value of the property whether they add to or reduce the said value;

(Two) It shall be assumed for the purpose of ascertaining or determining the current open market value of the property that the purchaser has complied with the obligations of the debtor specified in Standard Conditions 1(a), 3 and 4(b) specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970;

(Three) Failing agreement between the purchaser and the seller as to the current open market value of the property at any time the said value will be determined by an independent valuer (acting as an arbiter, not as an expert) to be nominated on the application of either the purchaser or the Council by the Chairman for the time being of the Royal Institution of Chartered Surveyors in Scotland; Declaring that (a) the decision of the said independent valuer shall be binding on both parties and (b) the expenses of said independent valuer will be shared equally by the purchaser and the Council.

FOURTH

The parties hereto will each bear their own legal expenses in connection with the preparation of this deed and any Standard Security in favour of the Council.

FIFTH

Save for manifest error, the sums due hereunder shall be conclusively vouched by a simple certificate signed by the appropriate Proper Officer of the Council.

SIXTH

In the event that the sum equal to one-fifth of the current open market value of the property or any part thereof is unable to be met because of any sums owned by the purchaser to a creditor in terms of any first ranking Standard Security granted by the purchaser and which is referred to in any Standard Security granted by purchaser in favour of the Council, then the purchaser shall be discharged from the obligation imposed upon him in Clause FIRST of this Agreement.

This is the draft Standard Security referred to in the foregoing Minute of Agreement among the Midlothian Council, Pentland Limited, the Royal Bank of Scotland plc and Grange Estates (Newbattle) Limited.

I/We, xxxxxx residing at xxxxxx (declaring that where these presents are granted by more than one person the singular herein included the plural and all obligations herein are undertaken jointly and severally) hereby in security of all sums which are now or may hereafter become due to me The Midlothian Council, incorporated under the Local Government (Scotland) Act and having their headquarters at Midlothian House, Buccleuch Street, Dalkeith, by virtue of the Minute of Agreement between them and xxxx subscribed by xxxxxx of even date with my subscription of these presents and any variation thereof, GRANT a Standard Security in favour of the said Midlothian Council over ALL and WHOLE that dwellinghouse known as xxxxxxxxxxxxxxxx together with the garden ground effeiring thereto and the whole rights, common, mutual and otherwise being the subjects in the County of Midlothian situated at xxxxxxxxxxxxxxxx, extending to and shown delineated in red on the plan annexed and subscribed as relative hereto; Together with the whole parts, privileges and pertinents of the said subjects and the fittings and fixtures therein, free ish and entry therefrom and thereto and my whole right, title and interest, present and future therein; The Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 as varied by the said Minute of Agreement and any lawful variation thereof operative for the time being shall apply; And I agree that the Standard Conditions shall be varied to the effect that (First) the insurance to be effected in terms of Standard Condition 5(a) shall provide index-linked cover to the extent of either initially (price of house) or the reinstatement value of the security subjects or the market value of the security

subjects whichever is the highest; (Second) all policies of insurance effected by the debtor which afford cover in respect of the security subjects against fire and other risks within the terms of Standard Condition 5(a) shall be disclosed to the creditor by the debtor in order that they may be written or endorsed for the interests of the creditor and the debtor and shall in other respects be deemed for the purpose of this Standard Security to have been effected under Standard Condition 5(a); And the said Midlothian Council, as evidenced by their execution hereof agree, that the sums hereby secured shall be ranked and preferred on the said subjects and on the rents thereof and on the proceeds thereof or any part thereof in the event of a sale of the same after and postponed to a sum not exceeding (Insert amount borrowed which must not exceed 80% of the open market value i.e the purchase price) agreed prior to the date of recording hereof to be advanced under the Standard Security granted or about to be granted by me in favour of (Insert name of bank or building society) interest and expenses secured or that may be secured thereby and that without regard to the order in which the last mentioned Standard Security and these presents have been or shall be recorded; And I grant warrandice but excepting therefrom the said Standard Security in favour of the said (Insert name of bank or building society): And I consent to registration for execution:

This is the Draft Bond referred to in the foregoing Minute of Agreement among The Midlothian Council, Pentland Limited, the Royal Bank of Scotland plc and Grange Estates (Newbattle) Limited.

GUARANTEE BOND ("Bond") in respect of the erection of approximately 600 dwellinghouses on Sites L and M all at Thornybank, Dalkeith

Between

(1) The Royal Bank of Scotland plc (Company Number SC 90312) having its registered office at 36 St. Andrew Square, Edinburgh, EH2 2YB (the "Cautioner"); and

(2) The Midlothian Council incorporated under the Local Government etc. (Scotland) Act 1994 and having its principal offices at Midlothian House, Buccleuch Street, Dalkeith, Midlothian (the "Council").

1. Background

1.1 Pentland Limited, a company incorporated in the Cayman Islands and having its registered office at Strathvale House, PO Box 1109, Grand Cayman, British West Indies ("Company 1"), Grange Estates (Newbattle) Limited, a company incorporated under the Companies Acts (Registered Number 82225) and having its registered office at 15 Atholl Crescent, Edinburgh, EH3 8HA ("Company 2") and the Cautioner have entered into a Minute of Agreement in respect of Site L and Part of M at Thornybank, Dalkeith ("Agreement 1") dated [] and registered in the Land Register on [] under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the Council.

1.2 Company 1 and the Cautioner have entered into a Minute of Agreement in respect of Remainder of Site M at Thornybank, Dalkeith ("Agreement 2") dated [] and registered in the Land Register on [] under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the Council.

1.3 For the avoidance of doubt any reference to Company 1 under this bond shall be deemed to include a reference to their successors in title to the Second Party's Land as defined in the Agreement 1 and/or the Second Party's Land as defined in the Agreement 2.

1.4 For the avoidance of doubt any reference to Company 2 under this bond shall be deemed to include a reference to their successors in title to the Third Party's land as defined in the Agreement 1.

1.5 The Council has requested Company 1 to provide a bond to secure the performance of:

(a) certain financial obligations of Company 1; and

(b) certain financial obligations of Company 2

1.6 Company 1 has requested the Cautioner and the Cautioner has agreed to guarantee the performance of (1) the obligations of the Company 1 in terms of Clauses 5, 7 and 11 of the Agreement 1 and (2) the obligations of the Company 2 in terms of Clause 5.1 of the Agreement 1.

1.7 Company 1 has requested the Cautioner and the Cautioner has agreed to guarantee the performance obligations of the Company 1 in terms of Clause 4 of the Agreement 2.

2. Scope of Bond

2.1 The Cautioner subject to the terms hereof hereby guarantees to the Council the due and proper performance of (1) the obligations referred to in Clauses 5, 7 and 11 of the Agreement 1 by Company 1 and (2) the obligations referred to in Clause 5.1 of the Agreement 1 by Company 2.

2.2 The Cautioner subject to the terms hereof hereby guarantees to the Council the due and proper performance of the obligations referred to in Clauses 4 of the Agreement 2 by Company 1.

2.3 In the event of a breach of the obligations referred to in Clause 2.1 above by Company 1 and/or Company 2, the Cautioner shall on receipt of a notice and claim given in accordance with Clause 3.1 below pay to the Council the amount then due in terms of the Agreement 1.

2.4 In the event of a breach of the obligations referred to in Clause 2.2 above by Company 1 the Cautioner shall on receipt of a notice and claim given in accordance with Clause 3.1 below pay to the Council the amount then due in terms of the Agreement 2.

3. Condition of Bond Notice

3.1 Prior to the Cautioner becoming liable to pay any sum in terms of Clauses 2.3 and/or 2.4 above, the Council must first have given 14 days notice in writing by recorded delivery or registered post to the Cautioner (which must at the same time be copied by the Council to Company 1 and Company 2) stating that:-

(a) That there has been a breach by Company 1 and/or Company 2 of the obligations referred to in Clause 2.1 and/or 2.2 above;

(b) the amount then due but remaining unpaid in terms of the Agreement 1 and/or Agreement 2; and that the Council makes a claim for payment of such amount from the Cautioner under this Bond.

3.2 The Cautioner shall not be obliged to investigate the authenticity or validity of a notification and claim in terms of Clause 3.1 above bearing to be issued by an authorised proper officer of the Council and that such claims shall be conclusive evidence that the amount claimed is due and payable.

4. Limits of Bond

4.1 In this Clause 4 the "Date of Commencement of Material Operations" means the date of the Cautioners receipt of written notice confirming that Company 1 and/or Company 2 have undertaken material operations ("Material Operations") as defined in Clause 13 of Agreement 1, which notice shall be sent by the Council to the Cautioner at the above address within 5 days of the Councils receipts of a notice from the Company 1 and/or Company 2 confirming the Company 1 and/or Company 2 intention to undertake Material Operations.

4.2 From the date hereof until the Date of Commencement of Material Operations the liability of the Cautioner shall be nil. After the Date of Commencement of Material Operations the maximum aggregate total liability of the Cautioner to the Council in relation to all claims under this Bond by the Council shall not in any circumstances except where expressly agreed in writing by the Cautioner exceed the sum of TWO MILLION FIVE HUNDRED THOUSAND POUNDS (£2,500,000) Sterling.

4.3 The maximum aggregate liability at any particular time of the Cautioner to the Council shall be the sum narrated in Clause 4.2 under deduction of any sum previously paid to the Council in terms of Clauses 5, 7 and 11 and of Clause 4 of the Agreement 1 and the Agreement 2 and any sum previously claimed by the Council and in terms of Clauses 2.3 and/or 2.4 above and paid by the Cautioner. The Cautioner shall be entitled to regard any payment from the Company 1 and/or Company 2s bank account or accounts to the Council (as evidenced by the relevant bank statement) as being sufficient proof of payment in terms of the Agreement 1 and/or Agreement 2 (as the case may be), unless any cheque drawn on said bank accounts is dishonoured.

5. Discharge Release and Expiry

5.1 The obligations of the Cautioner under this Bond shall cease and the Cautioner shall be released and discharged absolutely except in relation to claims already made and not paid by the Cautioner at the earliest of (1) the date on which (a) the obligations incumbent on Company 1 referred to in Clauses 5, 7 and 11 of the Agreement 1 have been fulfilled and (b) the date on which the obligations incumbent on Company 2 referred to in Clause 5.1 of the Agreement 1 have been fulfilled and (c) the date on which the obligations incumbent on Company 1 referred to in Clause 4 of the Agreement 2 have been fulfilled; or (2) the date of procurement by Company 1 and/or Company 2 of a replacement bond for this bond from a bank or other financial institution demonstrably capable of meeting obligations under this bond which the Cautioners would

otherwise have had to meet, on terms which are (a) *mutatis mutandis* with this Bond and (b) to the Council's satisfaction acting reasonably; or (3) the date falling 10 years after the date hereof.

5.2 On release, discharge or expiry of the obligations of the Cautioner under this Bond, the Council shall forthwith send the original of this bond to the Cautioner marked as discharged together with a certified copy of same to Company 1 and Company 2.

6. General

6.1 This Bond shall be governed by and shall be construed in accordance with the Law of Scotland and the Courts of Scotland shall have exclusive jurisdiction in all matters or questions relative thereto.

6.2 The parties agree to registration hereof for preservation and execution.

This is the Traffic Regulation Order referred to in the foregoing Minute of Agreement among The Midlothian Council, Pentland Limited, the Royal Bank of Scotland plc and Grange Estates (Newbattle) Limited.

THE MIDLOTHIAN COUNCIL (COWDEN ROAD, DALKEITH, MIDLOTHIAN) (PROHIBITION OF VEHICLES) TRAFFIC REGULATION ORDER 2002

The Midlothian Council in exercise of their powers under sections 1(1), 2(1) to (3) and 92 of the Road Traffic Regulation Act 1984, as amended, (which Act as so amended is hereinafter referred to as "the 1984 Act") and of all other enabling powers and after consultation with the Chief Constable in accordance with Part III of Schedule 9 to the 1984 Act, hereby make the following Order:-

1. This Order may be cited as "The Midlothian Council (Cowden Road, Dalkeith, Midlothian) (Prohibition of Vehicles) Traffic Regulation Order 2002" and shall come into operation on the date the Alternative Road, as hereinafter defined, is complete and open to traffic. In the event that the Alternative Road is not complete and open to traffic before the expiry of three years from the date of making this Order then this Order will fall and be of no effect and that without the necessity of express renunciation.

2. In this Order:-

"Alternative Road" means a new road to be constructed which will connect Cowden Road to the A68 trunk road as the route of the new road is indicatively shown coloured red on the plan annexed and executed as relative hereto;

"Article" means an article of this Order;

"Chief Constable" means the Chief Constable of the Lothian and Borders police area;

"pedal cycle" shall have the meaning given by Regulation 3 of the Pedal Cycles (Construction and Use) Regulations 1983 (No. 1176);

"Schedule" means the schedule to this Order.

3. The restrictions imposed by this Order shall be in addition to and not in derogation of any restriction or requirement imposed by any regulations made or having effect as if made under the 1984 Act or by or under any other enactment.

4. Save as provided in Article 5 of this Order no person shall, except upon the direction or with the permission of a police constable in uniform or a traffic warden, cause or permit any vehicle to enter, proceed or wait in or on any part of the length or road specified in the Schedule to his Order.

5. The prohibition imposed by Article 4 shall not apply to pedal cycles.

6. Bollards shall be placed across the length of road specified in the Schedule.

Given under the seal of The Midlothian Council this xxxxxx day of xxxxxxxx

Two thousand and two

Proper Officer

SCHEDULE

ROAD IN DALKEITH, MIDLOTHIAN

That length of Cowden Road, Dalkeith, close to its junction with the A68 trunk road measured from a point eleven metres or thereby north westwards from the extended northwest kerb line of the A68 along the centre line of Cowden Road and extending from that point north westwards for a distance of two metres or thereby.

Note 1: a copy of the Plan is included in this Title Sheet as Supplementary Plan No. 1 to the Title Plan.

Note 2: a copy of the plan annexed to the Traffic Regulation Order is included in this Title Sheet as Supplementary Plan No. 2 to the Title Plan.

Burden 4

Deed of Servitudes and Conditions, registered/recorded G.R.S. (Midlothian) 23 May 2005, between Pentland Limited ("Pentland") proprietor of the Pentland Land (as hereinafter defined) and Grange Estates (Newbattle) Limited ("Grange"), proprietor of the Grange Land (as hereinafter defined), whereby Grange and Pentland agree as follows:

1. Interpretation

1.1 In this Deed of Servitudes and Conditions the following expressions shall bear the meanings respectively assigned to them as follows:-

"cyclepaths" means any access route created specifically for usage by pedestrians and cyclists (but not for motorised vehicles);

"Developer" means any party carrying out development of any part of the Pentland Land;

"Development Common Property" means Public Open Space, Landscaped Areas, cyclepaths, accessways, parking areas, roads and footpaths including the Distributor Road and the Spine Road (unless or until adopted for maintenance by the Local Authority or some other statutory body) all grass, planted, slabbed, gravelled and tarmacadamed areas not included within a Plot;

"Development" means development (including the Grange Development and the Pentland Development) of any part of the Entire Site for commercial or residential or other purposes;

"Grange Development" means development of any part of the Grange Land for commercial, residential or other purposes;

"Landscape Company" means Scottish Woodlands Limited, a Company incorporated in Scotland under the Companies Acts (Register Number 101787) and having its Registered Office at Research Park, Riccarton, Edinburgh or an equivalent landscape maintenance company or body to whom the Development Common Property, or any part or parts thereof, is conveyed in terms of Condition 6 hereof, or their successors in title to the Development Common Property (or such part or parts thereof);

"Landscaped Areas" means any areas within the Entire Site designated in any Planning Consent to be permanently planted with trees, shrubs, grass or other planting, or otherwise as the Planning Consent may prescribe but always excepting any Plot;

"Local Authority" means Midlothian Council, Midlothian House, 40-46 Buccleuch Street, Dalkeith;

"Pentland Development" means development of any part of the Pentland Land for commercial, residential or other purposes;

"Planning Authority" means Midlothian Council, Midlothian House, 40-46 Buccleuch Street, Dalkeith or any successor body;

"Planning Consent" means any outline or detailed planning consent or reserved matters consent governing development of any part of the Entire Site;

"Plot" means each of the plots or areas of ground as detailed or defined in any Planning Consent on which a dwellinghouse or other building is constructed within the Entire Site or which forms the exclusive curtilage of such dwellinghouse or other building.

"Public Open Space" means any area (together with any apparatus or equipment installed thereon) designated in any Planning Consent for sports, play, recreational or other leisure purposes;

"Services Infrastructure" means any electricity cables, gas pipes, water pipes, foul and surface water sewers (including the Main Sewer), tanks, sewage pumps, meters chambers, ducts, electricity sub-stations, gas governors and housing or other associated installations (including flood attenuation apparatus, pipes, tanks, ponds, reservoirs and associated structures) telecommunications and other electronic media communication cables or apparatus and street lighting infrastructure all together with any plant, machinery inspection points, chambers,

manholes and covers, transformers, junction boxes and equipment associated therewith required for or built in respect of the Development;

"the 2003 Act" means the Title Conditions (Scotland) Act, 2003;

"the Distributor Road" means the new roadway, with associated footpaths, roundabouts, pedestrian crossings, traffic lights, sight lines and associated installations, including parking areas, bus stops or lay-bys shown coloured red on the Plan, and insofar as lying within the Entire Site;

"the Entire Site" means the Pentland Land and the Grange Land together;

"the Grange Land" means that area of land shown coloured yellow on the Plan under exception of the sub-station site registered under Title Number MID75652;

"the Main Sewer" means the principal foul water sewerage pipe (or pipes) with traps, manholes and other associated apparatus to serve the Entire Site installed, or to be installed along the route coloured green on the Plan;

"the Pentland Distributor Road" means that part of the Distributor Road situated within the Pentland Land;

"the Pentland Land" means that area of land shown shaded purple on the Plan.

"the Plan" means the plan annexed hereto;

"the Spine Road" means the new roadway, with associated footpaths, roundabouts, pedestrian crossings, traffic lights, sight lines and associated installations including parking areas, bus stops or lay-bys lying along the route, shown, indicatively only, coloured blue on the Plan, the precise route to be determined by the Planning Authority.

2. Pentland hereby grants to Grange, and its successors as heritable proprietors of the Grange Land or any part thereof (including any such proprietor carrying out the Development, or part thereof, the Landscape Company and their agents or contractors, statutory bodies or public utilities whom such party may nominate, and the proprietors of any Plot) the following non-exclusive heritable and irredeemable servitude rights:-

2.1 A right of access over and in respect of the Spine Road, that part of the Distributor Road, and any other roads, footpaths or cyclepaths installed or to be installed within the Pentland Land as part of the Pentland Development and that for pedestrian and vehicular traffic and for all reasonable purposes, but subject to such regulation as to usage thereof as may be prescribed by the Planning Authority. The rights hereby granted are so granted subject always (i) to the party exercising the same making good as soon as reasonably practicable any damage caused in the exercise thereof (except where, after adoption, such responsibility has passed to the Local Authority or other body), (ii) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience to Pentland and its foresaids, (iii) to such rights being exercised at the sole cost of those exercising the rights and without recourse to Pentland and its foresaids, and (iv) the exercise of such rights being prohibited over any Plot;

2.2 A right of wayleave to connect with, use, clean, empty, inspect, maintain and where necessary renew any Services Infrastructure, and expressly including the Main Sewer, installed in the Pentland Land as part of the Pentland Development and required for usage, as a condition of any statutory consent or otherwise, in connection with the Grange Development or any part thereof. Declaring that the rights hereby granted may be exercised, on behalf of Grange by any contractors, agents, workmen, statutory authorities or public utilities or other third parties whom Grange may nominate. The rights hereby granted are so granted subject always (i) to the party exercising the same making good as soon as reasonably practicable any damage caused in the exercise thereof (except where following adoption such responsibility has passed to the Local Authority or another body), (ii) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience to Pentland and its foreshafts; (iii) to such rights being exercised at the sole cost of those exercising the rights and without recourse to Pentland and its foreshafts, and (iv) the exercise of such rights being prohibited over any Plots unless any Planning Consent or other statutory consent relating to the installation of any Services Infrastructure so requires; and

2.3 With regard to construction of the Distributor Road, the Spine Road and any Services Infrastructure lying beneath or adjacent to them or either of them or required to facilitate either, or both, of the Pentland Development and/or the Grange Development, heritable and irredeemable servitude rights of access to the Pentland Land, for the purposes of installation, construction, maintenance, renewal and cleaning or completion of the Distributor Road, the Spine Road and/or the Services Infrastructure as aforesaid or any portion thereof, such rights extending beyond the specific routes of the Distributor Road, the Spine Road and Services Infrastructure so far as may be required to exercise the same, by way of access for construction traffic, site access, storage of materials or spoil, erection of compounds, or such other purposes as may be reasonably required, provided always that the party exercising such rights shall ensure that they are exercised so as to cause the minimum of inconvenience to occupiers or owners of the land affected, exercised only for so long as may be reasonably required to complete construction of the Distributor Road, the Spine Road and/or Services Infrastructure as aforesaid, and that all and any surface or other damage caused by the exercise of such rights is properly made good as soon as reasonably possible and in any event within 6 months of completion of construction of the Distributor Road, the Spine Road and Services Infrastructure, or relevant portion thereof. Declaring where the route or routes of the Distributor Road the Spine Road and associated Services Infrastructure vary from those shown on the Plan, (the routes shown not being conclusive) then the rights and obligations hereinbefore granted and created will be deemed to have been varied accordingly in order to accommodate such change of route or routes.

3. Grange hereby grants to Pentland and its successors as heritable proprietors of the Pentland Land or any part thereof (including any such proprietor carrying out the Development, or part thereof, the Landscape Company and their agents or contractors, statutory bodies or public utilities whom such party may nominate and the proprietors of any Plot) the following non-exclusive heritable and irredeemable servitudes:-

3.1 A right of access over and in respect of that part of the Distributor Road, and any other roads, footpaths or cyclepaths installed or to be installed within the Grange Land as part of the Grange Development and that for pedestrian and vehicular traffic and for all reasonable purposes, but subject to such regulation as to usage thereof as may be prescribed by the Planning Authority. The rights hereby granted are so granted subject always (i) to the party exercising the same making good as soon as reasonably practicable any damage caused in the exercise thereof

(except where, after adoption such responsibility has passed to the Local Authority or other body), (ii) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience to Grange and its foresaids, (iii) to such rights being exercised at the sole cost of those exercising the rights and without recourse to Grange and its foresaids, and (iv) the exercise of such rights being prohibited over any Plot;

3.2 A right of wayleave to install, connect with, use, clean, empty, inspect, maintain and where necessary renew any Services Infrastructure, and expressly including the Main Sewer, installed in the Grange Land as part of the Grange Development and required for usage, as a condition of any statutory consent or otherwise, in connection with the Pentland Development. Declaring that the rights hereby granted may be exercised, on behalf of Pentland and by any Developer carrying out Development within the Pentland Land or part thereof by any contractors, agents, workmen, statutory authorities or public utilities or other third parties whom Pentland or the Developer may nominate. The rights hereby granted are so granted subject always (i) to the party exercising the same making good as soon as reasonably practicable any damage caused in the exercise thereof (except where, following adoption, such responsibility has passed to the Local Authority or another body), (ii) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience to Grange and its foresaids; (iii) to such rights being exercised at the sole cost of those exercising the rights and without recourse to Grange and its foresaids, and (iv) the exercise of such rights being prohibited over any Plot unless any Planning Consent or other statutory consent relating to the installation of any Services Infrastructure so requires; and

3.3 With regard to construction of the Distributor Road, the Spine Road and any Services Infrastructure lying beneath or adjacent to them or either of them or required to facilitate either, or both, of the Pentland Development and/or the Grange Development Grange grants to Pentland and to any Developer carrying out Development within the Pentland Land or part thereof in respect of the Grange Land, heritable and irredeemable servitude rights of access to the Grange Land, for the purposes of installation, construction, maintenance, renewal and cleaning or completion of the Distributor Road, the Spine Road and/or the Services Infrastructure as aforesaid or any portion thereof, such rights extending beyond the specific routes of the Distributor Road, the Spine Road and Services Infrastructure so far as may be required to exercise the same, by way of access for construction traffic, site access, storage of materials or spoil, erection of compounds, or such other purposes as may be reasonably required, provided always that the party exercising such rights shall ensure that they are exercised so as to cause the minimum of inconvenience to occupiers or owners of the land affected, exercised only for so long as may be reasonably required to complete construction of the Distributor Road, the Spine Road and/or Services Infrastructure as aforesaid, and that all and any surface or other damage caused by the exercise of such rights is properly made good as soon as reasonably possible and in any event within 6 months of completion of construction of the Distributor Road, the Spine Road and Services Infrastructure, or relevant portion thereof. Declaring where the route or routes of the Distributor Road, the Spine Road and associated Services Infrastructure vary from those shown on the Plan, (the routes shown not being conclusive) then the rights and obligations hereinbefore granted and created will be deemed to have been varied accordingly in order to accommodate such change of route or routes.

4. The following real burden is imposed on the Pentland Land (Firstly) for the benefit of the Grange Land, and (Secondly) as a Community Burden on the Pentland Land, enforceable by the

proprietor or proprietors thereof, or any part or parts thereof from time to time, namely Pentland and their successors as proprietors of the Pentland Land, or any part thereof, shall be responsible for the maintenance, repair and where necessary renewal of the parts of the Services Infrastructure and Development Common Property (including Public Open Space and Landscaped Areas) within the Pentland Land including without prejudice to the foregoing generality the replacement of trees and shrubs and the cutting of grass and the provision of lighting (except insofar as any area or responsibility may be adopted or taken over by the Local Authority or conveyed or transferred to the Landscape Company as appropriate).

5. The following real burden is imposed on the Grange Land (Firstly) for the benefit of the Pentland Land, and (Secondly) as a Community Burden on the Grange Land, enforceable by the proprietor or proprietors thereof, or any part or parts thereof from time to time, namely Grange and their successors as proprietors of the Grange Land or any part thereof shall be responsible for the maintenance, repair and where necessary renewal of the parts of the Services Infrastructure and Development Common Property (including Public Open Space and Landscaped Areas) lying within the Grange Land including without prejudice to the foregoing generality the replacement of trees and shrubs, the cutting of grass and the provision of lighting (except insofar as any area or responsibility may be adopted or taken over by the Local Authority or conveyed or transferred to the Landscape Company as appropriate).

6. Grange and Pentland for their respective interests as heritable proprietors of the Grange Land and Pentland Land respectively and their successors as proprietors of the Grange Land and the Pentland Land respectively reserve the right and shall be at liberty to dispone and transfer or procure the disposition and/or transfer of the whole or any part of the Development Common Property to the Landscape Company in whole or in part, in tranches, and at such time or times as Grange and/or Pentland and their respective foresaids shall deem appropriate;

6.1 and the following real burden is imposed on the Grange Land for the benefit of the Pentland Land, namely Grange and their foresaids shall, upon granting or procuring such dispositions or transfers, appoint the Landscape Company to estate manage the Development Common Property or the part or parts thereof disposed or transferred as aforesaid. Grange and their foresaids further reserve the right and shall be at liberty to dispone and/or transfer or procure the disposition and transfer of any of the foregoing areas at any time or times to a Local or other Authority (or to the Landscape Company) and Pentland and their foresaids will not object to such disposition, dispositions, transfer or transfers but that subject to Grange and their foresaids always being hereby obliged to relieve the Landscape Company of all planning conditions in respect of any areas so disposed or transferred save any relating to the maintenance, management and upkeep of the areas so disposed or transferred. In the event that Grange or their foresaids do so dispone or transfer or procure such disposition or transfer they will enter into an agreement with the Landscape Company which will oblige it in exchange for payment for Services to be provided (a) to estate manage any areas for which they are responsible or which are transferred to them in terms of this clause to a reasonable standard for the amenity of Grange and Pentland and their successors as proprietors of the Grange Land and Pentland Land and to a standard to comply with any planning conditions applying to the areas disposed or transferred and (b) to permit any proprietor within the Entire Estate, free access to and proper usage of such areas for the leisure, play, recreational or other purposes for which they are intended.

6.2 and the following real burden is imposed on the Pentland Land for the benefit of the Grange Land, namely Pentland and their foresaids shall, upon granting or procuring such dispositions or transfers, appoint the Landscape Company to estate manage the Development Common Property or the part or parts thereof disposed or transferred as aforesaid. Pentland and their foresaids further reserve the right and shall be at liberty to dispose and/or transfer or procure the disposition and transfer of any of the foregoing areas at any time or times to a Local or other Authority (or to the Landscape Company) and Grange and their foresaids will not object to such disposition, dispositions, transfer or transfers but that subject to Pentland and their respective foresaids always being hereby obliged to relieve the Landscape Company of all planning conditions in respect of any areas so disposed or transferred save any relating to the maintenance, management and upkeep of the areas so disposed or transferred. In the event that Pentland or their respective foresaids do so dispose or transfer or procure such disposition or transfer they will enter into an agreement with the Landscape Company which will oblige it in exchange for payment for Services to be provided (a) to estate manage any areas for which they are responsible or which are transferred to them in terms of this clause to a reasonable standard for the amenity of Grange and Pentland and their successors as proprietors of the Grange Land and Pentland Land and to a standard to comply with any planning conditions applying to the areas disposed or transferred and (b) to permit any proprietor within the Entire Estate, free access to and proper usage of such areas for the leisure, play, recreational or other purposes for which they are intended.

7.1 In this Clause 7.1:

"Benefited Property" means the Entire Site, under exception of the Open Ground.

"Benefited Proprietors" means Grange, Pentland and their respective successors as heritable or registered proprietors of the Entire Site, under exception as aforesaid.

"Burdened Property" means the Open Ground.

"Burdened Proprietors" means the Landscape Company.

"Management Operations" means all works and others comprised in the management, maintenance and where necessary renewal of the Open Ground as amenity woodlands, Landscaped Areas, Public Open Space, surface water drainage and attenuation schemes, roads, footpaths, accessways, cyclepaths or others in accordance with the 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).

"Open Ground" means the Development Common Property, or part or parts thereof, disposed or transferred to the Landscape Company.

"Specification" means the specification defined at condition 12 specifying appropriate elements of the Management Operations and subject to such variations to the Specification as may be agreed in writing from time to time between (1) the Landscape Company, Grange and/or Pentland during such period as Grange or Pentland, respectively, is a proprietor of any part of the Entire Site (the right to participate in such variation terminating for Grange and Pentland respectively when they are no longer proprietors as aforesaid); and (2) thereafter between the

Landscape Company and a majority of the proprietors present at a meeting of the proprietors of the Plots on the Entire Site convened to discuss the matter.

The following real burden is imposed on the Burdened Property in favour of the Benefited Property:

The Burdened Proprietors shall carry out the Management Operations provided that:

(i) the foregoing obligation shall be deemed discharged at such time as the Benefited Property shall have ceased substantially to be used as a residential housing development; and

(ii) notwithstanding the foregoing, the Burdened Proprietors shall be entitled, at all times, to use the Open Ground for such purposes as they 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 In this Clause 7.2:

"Annual Management Charge" means the pro rata share applicable to each Plot of the total annual costs incurred by the Open Ground Proprietors in effecting the Management Operations, together with reasonable estate 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 created or permitted to be created within the Entire Site with each Plot bearing annually a proportion of the said costs, remuneration, premiums and charges (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);

"Burdened Property" means the Entire Site under exception as aforesaid and including in particular, for the avoidance of doubt, any Plot;

"Benefited Property" means the Open Ground;

"Open Ground" means the Development Common Property, or part or parts thereof, disposed or transferred to the Landscape Company;

"Open Ground Proprietors" means the Landscape Company as heritable proprietors of the Open Ground;

"Proprietors" means the proprietor of each Plot;

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

7.2.1 The Proprietors are hereby taken bound and obliged to pay the Annual Management 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 to the Open Ground Proprietors; Declaring for the avoidance of doubt (i) that no Annual Management Charge will be payable by Pentland, Grange or any developer, and will only become payable in respect of any Plot when

development thereof has been completed and ownership thereof as a separate entity created; and (ii) that nothing contained herein shall prevent or restrict Grange or Pentland from transferring responsibility for management and maintenance of part of 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 or responsibility, the Proprietors will be bound to pay the Annual Management Charge applicable to such part or parts of the Open Ground and the Open Ground Proprietors shall be entitled to enforce the real burdens imposed in terms of this Clause;

7.2.2 Subject to the proviso aftermentioned, the costs of effecting the Management Operations and the level of the Annual Management Charge shall not be permitted to increase in any relevant year by a margin or amount which exceeds the relevant increase for that year in the rate of inflation 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 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;

7.2.3 If a majority of the Proprietors of the Plots in terms of this Deed of Conditions agree that they wish any amendment to be made to the Specification or works comprising the Management Operations (and the costs associated therewith), declaring that any such amendments shall not bring the Specification or works below the requirements of any relevant Planning Consent then the Proprietors or the relevant majority thereof will require to agree with the Open Ground Proprietors the appropriate variation in the said Specification works or costs which is appropriate having regard to the proposed variation in the Specification/Management Operations 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 said Proprietors to the Open Ground Proprietors, to agree upon the variation of said costs, then the question 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 said Proprietors or 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 or the said Proprietors, and the decision of such expert in respect of any variation in costs arising out of the proposed variation to the Specification/Management Operations (and the costs associated therewith), but not any other matter affected by this Clause, shall (save in the case of manifest error) be conclusive and binding upon the Open Ground Proprietors and all Proprietors;

7.2.4 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 shall be recoverable from the Plot Proprietors in addition to the Annual Management Charge;

8. The following real burdens shall apply to the Entire Site (which shall, for the purposes of this clause 8 be the Burdened Property) and shall be enforceable by Pentland and Grange as

heritable proprietors aftermentioned or either of them, for so long as they retain an interest as heritable proprietors in any parts of the Entire Site, declaring that the rights hereby created are created exclusively for the benefit of such portions of the Entire Site as remain from time to time in the ownership of Pentland and Grange respectively (which portions are, for the purposes of this clause 8, the Benefited Property) and will be discharged by Pentland and Grange respectively in the event that Pentland and Grange cease to hold an interest as proprietors of any parts of the Pentland Land and Grange Land respectively.

8.1 In relation to the Development (including without prejudice to that generality, demolition, site clearance and/or construction works);

8.1.1 the Development will be carried out in a neat and tidy manner and without any unsightly obstructions; all sales offices, workman's huts, compounds and storage areas for plant, equipment, machinery or materials shall be positioned in such locations as may be reasonably practicable to reduce injury to amenity or to minimise nuisance or inconvenience to any other part of the Entire Site.

8.1.2 all roads, footpaths, accessways and cyclepaths shall, where the Development is continuing and insofar as reasonably possible, be kept clear and free of debris, litter, water, mud or other obstacles and materials which might impede, damage or soil any vehicles or parties using the same;

8.1.3 the Development will be carried out in such a manner as (One) will cause the minimum practical physical disruption to the other parts of the Entire Site; (Two) will not interrupt the supplies of electricity, gas, water, sewerage, telephone and other mains services to other parts of the Entire Site; (Three) will not prevent access to and egress from other parts of the Entire Site beyond the degree which is reasonably necessary and so that whenever reasonably possible adequate alternative access is available in the event of any such restriction;

8.1.4 all noise from the Development will be kept to the minimum practicable;

8.1.5 there will be made good by the party causing the same all damage arising out of the Development sustained in relation to any other parts of the Entire Site including but not limited to all or any roads, footpaths, accessways, cyclepaths or Services Infrastructure, trees, shrubs, plants, timber, machinery, equipment, walls or other structures, or other property.

8.2 Grange and Pentland for their respective interests will be entitled to agree, in respect of the Entire Site, the locations and nature of any strategic or large scale signage promoting the Entire Site (including details of the Pentland Development or the Grange Development), declaring that upon completion of the Grange Development, any such signage situated on the Grange Land will be removed upon the reasonable request of Grange.

9. Insofar as Grange and Pentland may from time to time enter into a contract with Connect, Ocean Park House, East Tyndall Street, Cardiff CF24 5GT or any other party for the provision and installation of the infrastructure for the supply of gas to the Entire Site and it is specified that such contract may provide inter alia that the said infrastructure may remain the property of Connect, Grange, Pentland and their respective foresaids shall be bound by the terms of the said contract with Connect in connecting to and making use of such infrastructure.

10. In respect of and for the benefit of the Pentland Land (but, not, for the avoidance of doubt, the Grange Land) it is provided that:-

10.1 In this Condition 10.1;

"Burdened Property" means: (i) the Pentland Distributor Road; and (ii) the Spine Road

"Benefited Property" means the Pentland Land under exception only of the Pentland Distributor Road and the Spine Road

10.1.1 The Burdened Property is hereby burdened in favour of the Benefited Property, or any part thereof, and the proprietors from time to time of the Benefited Property or any part thereof, with a non-exclusive heritable and irredeemable servitude right of access for both pedestrian and vehicular traffic (including construction traffic) and for all reasonable purposes but subject to such regulation as to useage as may be prescribed by the Planning Authority. The rights hereby granted are so granted subject always (1) to the party exercising the same making good as soon as reasonably practicable any damage caused in exercise thereof (except where, after adoption, such responsibility is passed to the Local Authority or other body), (2) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience and (3) to such rights being exercised at the sole cost of those exercising the rights and without recourse to Pentland and its foresaids.

10.2 Each part of the Pentland Land, and in particular, any part thereof disposed to any Developer, and any Plot therein, is hereby burdened for the benefit of the remainder of the Pentland Land with a non-exclusive heritable and irredeemable servitude right of wayleave to connect with, use, clean, empty, inspect, maintain and where necessary renew any Services Infrastructure and expressly including the Main Sewer installed in the Pentland Land as part of the Pentland Development and required for useage as a condition of any statutory consent or otherwise in connection with the Pentland Development or any part thereof. Declaring that the rights hereby granted may be exercised on behalf of Pentland and any Developer by any contractors, agents, workmen, statutory authorities or public utilities or third parties whom Pentland or the Developer, as appropriate may nominate. The rights hereby granted are so granted subject always (1) to the party exercising the same making good as reasonably practicable any damage caused in the exercise thereof (except where following adoption such responsibility has passed to the local authority or other body); (2) such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience; (3) to such rights being exercised at the sole cost of those exercising the rights; (4) the exercise of such rights being prohibited over any Plots unless any Planning Consent or other statutory consent relating to the installation of any Services Infrastructure so requires.

10.3 Each part of the Pentland Land and in particular any parts thereof disposed to any Developer, and any Plot therein is hereby burdened for the benefit of the remainder of the Pentland Land, with a non-exclusive heritable and irredeemable servitude right of access over and in respect of any roads, footpaths, cyclepaths installed or to be installed within the Pentland Land as part of the Pentland Development and that for pedestrian and vehicular traffic (as appropriate) and for all reasonable purposes but subject to such regulation as to usage thereof as may be prescribed by the Planning Authority. The rights hereby granted are so granted subject always (1) to the party exercising the same making good as soon as reasonably

practicable any damage caused in the exercise thereof (except where, after adoption, such responsibility has passed to the Local Authority or other body); (2) to such rights being exercised at all time so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience; (3) to such rights being exercised at the sole cost of those exercising the rights.

10.4 No Developer shall make any application for any Planning Consent, or Roads Construction Consent conform to the Roads (Scotland) Act 1984, or Drainage Consent, conform to the Sewerage (Scotland) Act 1968 without first having obtained the consent of Pentland as proprietor of the Pentland Land, or part thereof the right hereby created being expressly for the benefit of such portion of the Pentland Land remaining from time to time in the ownership of Pentland (which consent shall not be unreasonably withheld or delayed); Where any Planning Consent or Road Construction Consent or Drainage Consent granted to a Developer shows a road layout providing for the continuation of roads and footpaths or cyclepaths, or Services Infrastructure beyond the boundary of that part of the Pentland Land belonging to the Developer, the Developer shall be required to construct and install the same as far as the boundary of that part of the Pentland Land belonging to them and that within such period as Pentland, acting reasonably in the circumstances of the Development may determine, but which in any event shall be not less than 2 years from commencement of the Development and not more than 4 years therefrom; No Developer shall seek to create a ransom strip between any two or more parts of the Pentland Land or seek consideration to be paid by a third party for being granted title to any area required in order to continue the construction of any road, footpath, cyclepath or Services Infrastructure;

10.5 It is expressly provided and declared that there is hereby retained power to Pentland as heritable proprietors of the Pentland Land, or any part thereof to make whatever alterations and deviations Pentland may consider proper upon any of the plans and proposals for the Pentland Development or even to depart entirely therefrom and Pentland expressly reserve the right to dispose of any part of the Pentland Land for such purposes as Pentland may think fit or to alter or modify in whole or in part the foregoing condition 10.

11.

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

11.2 The real burdens contained in Conditions 4, 5, 6, 6.1, 6.2, 7.1 and 7.2 hereof shall be and are, without prejudice to any other rights of enforcement specifically stated therein, hereby created real burdens enforceable as community burdens in respect of the Entire Site in terms of Section 27 of the 2003 Act.

11.3 The servitudes contained in Conditions 2, 2.1, 2.2, 2.3, 3, 3.1, 3.2, 3.3, 10.1, 10.1.1, 10.2 and 10.3 hereof are imposed on those servient tenements within the Entire Site specified in the said conditions ("the burdened properties") for the benefit of dominant tenements within the Entire Site so specified ("the benefited properties")

11.4 No application may be made to the Lands Tribunal for Scotland under section 90 (1) (a) (i) and section 91 (1) of the Act in respect of the real burdens and servitudes hereby created for a period of five years after the recording of this deed in the Register of Sasines, or its registration in the Land Register of Scotland whichever is the later.

11.5 The real burdens contained in Conditions 10.4 hereof shall not take effect with respect to any part of the Pentland Land, until the date of registration in the Land Register for Scotland of a conveyance of such part in which the said burdens are stated to apply.

12. Specification

SCOTTISH WOODLANDS LTD

Landscape Ground Maintenance Specification

Specification for Summer Maintenance

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

The summer maintenance programme shall run from 1 April to 31 October each year. Maintenance visits shall generally take place at two-weekly intervals, dependent 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, 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 at 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 round in order to maintain a neat and tidy appearance. Strimmers 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 hardstanding 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 as conditions dictate.

Shrubs shall be pruned once per annum at the suitable time of year in keeping with good horticultural practice. All arisings shall be removed from site.

During each visit any dead, dying or diseased shrubs shall be removed.

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 material is available.

In addition, where woodlands are in high visibility areas (e.g. main entrance, showhouse 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.

Wildflower Meadows

The Species Rich seeded areas shall be cut twice annually; once in October and once in May or when sufficient growth has developed.

All cuttings will be distributed evenly or collected and removed from the site.

The operational requirements will otherwise be as for grass cutting in the maintained areas.

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.

Landscape

Long Term Ground Maintenance

Specification for Winter Maintenance

The winter maintenance programme shall run from 1 November to 31 March in the following year.

Maintenance visits shall generally take place at monthly intervals, dependent 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, tins, 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 unless covered with a mulch material.

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 unless the shrubs have failed due to site conditions when a more suitable species shall be used.

Structural Woodland Areas

Any necessary replacement planting shall be carried out in accordance with the original planting specification unless the shrubs have failed due to site conditions when a more suitable species shall be used. 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.

Note 1: a copy of the Plan is included in this Title Sheet as Supplementary Plan No. 3 to the Title Plan.

Note 2: The effectiveness of the real burdens contained in Condition 10.4 in the said Deed of Servitudes and Conditions has been postponed, in respect of any part of the Pentland Land, until the date of registration of a conveyance of such part in which the said burdens are stated to apply. The said real burdens have been made effective in respect of the subjects in this Title.

Burden 5

Disposition by Pentland Limited to George Wimpey East Scotland Limited and their successors and assignees, registered 23 Jul. 2007, of 33.24 acres of ground lying to the north-west of the A68 public road, of which the subjects edged red on the Title Plan form part, contains the following real burdens and servitudes:

WHEREAS we and Grange Estates (Newbattle) Limited have granted the Deed of Servitudes and Conditions in Entry 4 for our respective interests in subjects including the subjects hereby we the said Pentland Limited HEREBY CONFIRM that where the terms "the Spine Road", "the Distributor Road", "the Pentland Land", "the Pentland Development" "Main Sewer", "Services Infrastructure", "Planning Consent" and "Plot" are used in these presents they shall have the same defined meanings as those ascribed to them in the said Deed of Servitudes and Conditions and, where appropriate, shall be as shown on Supplementary Plan No. 3 to the Title Plan; And we therefore grant in favour of our said disponees and their foresaid: (First) a non-exclusive heritable and irredeemable right of access over and in respect of the Spine Road, the Distributor Road, and any other roads, footpaths or cycle paths installed or to be installed within the Pentland Land as part of the Pentland Development and that for pedestrian and vehicular traffic and for all reasonable purposes, but subject to such regulation as to usage thereof as may be prescribed by the Planning Authority; The right hereby granted is so granted subject always (1) to our said disponees and their foresaids making good as soon as reasonably practicable any damage caused in the exercise thereof (except where, after adoption, such responsibility has

passed to the Local Authority or other body), (ii) to such rights being exercised at all, times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience to us and our successors as proprietors of the Pentland Land or any part thereof, (iii) to such rights being exercised at the sole cost of those exercising the rights and without recourse to us and our foresaids, and (iv) the exercise of such rights being prohibited over any Plot; (Second) without prejudice to the, foregoing provision a right to construct a cycle path along the route shown coloured yellow on the Supplementary Plan No. 4 to the Title Plan; (Third) a non-exclusive heritable and irredeemable right of wayleave to connect with, use, clean, empty, inspect, maintain and where necessary renew any Services Infrastructure, and expressly including the Main Sewer, installed in the Pentland Land as part of the Pentland Development and required for usage, as a condition of any statutory consent or otherwise, in connection with the Pentland Development or any part thereof; and (Fourth) a right to install and construct sewerage pipes generally along the route shown coloured purple on the said Supplementary Plan No. 4 to the Title Plan to connect into a prospectively adoptable public sewerage system and to discharge surface and foul sewerage into the same. Declaring that the right hereby granted may be exercised, on behalf of our said disponees by any contractors, agents, workmen, statutory authorities or public utilities or other third parties whom they may nominate. The rights hereby granted are so granted subject always (i) to our said disponees making good as soon as reasonably practicable any damage caused in the exercise thereof (except where following adoption such responsibility has passed to the Local Authority or another body), (ii) to such rights being exercised at all times so as to cause as little disruption as, is reasonably practicable and causing the minimum practicable inconvenience to us and our foresaids; (iii) to such rights being exercised at the sole cost of those exercising the rights and without recourse to us and our foresaids, and (iv) the exercise of such rights being prohibited over any Plot unless any Planning Consent or other statutory consent relating to the installation of any Services Infrastructure so requires;

AND ALSO WITH AND UNDER in furtherance of the analogous terms of the said Deed of Servitudes and Conditions but without prejudice to the whole terms thereof the following additional real burdens and reservations of servitude rights which, for the avoidance of doubt, are created for the benefit of the Pentland Land, under exception of the subjects hereby disposed (the Pentland Land under such exception being referred to as 'the Benefited Property') and as reservations in respect of, and burdens upon, the subjects hereby disposed (the subjects hereby disposed being referred to as 'the Burdened Property') videlicet:- the Burdened Property is hereby burdened in favour of the Benefited Property, or any part thereof, and the proprietors from time to time thereof or any part thereof, with (Primo) a non-exclusive heritable and irredeemable servitude right of access for both pedestrian and vehicular traffic (including construction traffic) in respect of the Distributor Road and the Spine Road so far as lying within the boundary of the Burdened Property and for all reasonable purposes but subject to such regulation as to usage as may be prescribed by the Planning Authority.. The rights hereby created are so created subject always (1) to the party exercising the same making good as soon as reasonably practicable any damage caused in exercise thereof (except where, after adoption, such responsibility is passed to the Local Authority or other body), (2) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience and (3) to such rights being exercised at the sole cost of those exercising the rights; (Secundo) a non-exclusive heritable and irredeemable servitude right of wayleave to install, connect with, use, clean, empty, inspect, maintain and where necessary renew any Services Infrastructure and expressly including the Main Sewer installed in the Burdened Property and required for usage as a condition of any statutory consent or otherwise in

connection with the Pentland Development or any part thereof. Declaring that the rights hereby granted may be exercised on behalf of Pentland and any Developer by any contractors, agents, workmen, statutory authorities or public utilities or third parties whom Pentland or the Developer, as appropriate may nominate, The rights hereby created are so created subject always (I) to the party exercising the same making good as reasonably practicable any damage caused in the exercise thereof (except where following adoption such responsibility has passed to the local authority or other body); (2) such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience; (3) to such rights being exercised at the sole cost of those exercising the rights; (4) the exercise of such rights being prohibited over any Plots unless any Planning Consent or other statutory consent relating to the installation of any Services Infrastructure so requires; (Tertio) a non-exclusive heritable and irredeemable servitude right of access over and in respect of any roads, footpaths, cycle paths installed or to be installed within the Burdened Property as part of The Pentland Development and that for pedestrian and vehicular traffic (as appropriate) and for all reasonable purposes but subject to such regulation as to usage thereof as may be prescribed by the Planning Authority The rights hereby granted are so granted subject always (1) to the party exercising the same making good as soon as reasonably practicable any damage caused in the exercise thereof (except where, after adoption, such responsibility has passed to the Local Authority or other body); (2) to such rights being exercised at all time so as to cause as Little disruption as is reasonably practicable and causing the minimum practicable inconvenience; (3) to such rights being exercised at the sole cost of those exercising the rights; (Quarto) with regard to construction of the Distributor Road, the Spine Road and any Services Infrastructure tying beneath or adjacent to them or either of them or required to facilitate the Pentland Development, heritable and irredeemable servitude rights of access to the Burdened Property, for the purposes of installation, construction, maintenance, renewal and cleaning or completion of the Distributor Road, the Spine Road and/or the Services Infrastructure as aforesaid or any portion thereof Lying within the boundary of the Burdened Property, such rights extending beyond the specific routes of the Distributor Road, the Spine Road and Services Infrastructure so far as may be required to exercise the same, by way of access for construction traffic, site access, storage of materials or spoil, erection of compounds, or such other purposes as may be reasonably required, provided always that the party exercising such rights shall ensure that they are exercised so as to cause the minimum of inconvenience to occupiers or owners of the land affected, exercised only for so long as may be reasonably required to complete construction of the Distributor Road, the Spine Road and/or Services Infrastructure as aforesaid, and that all and any surface or other damage caused by the exercise of such rights is properly made good as soon as reasonably possible and in any event within 6 months of completion of construction of the Distributor Road, the Spine Road and Services Infrastructure, or relevant portion thereof. Declaring where the route or routes of the Distributor Road, the Spine Road and associated Services Infrastructure vary from those shown on said Supplementary Plan No. 3 to the Title Plan (the routes shown not being conclusive) then the rights and obligations hereinbefore granted and created will be deemed to have been varied accordingly in order to accommodate such change of route or routes; (Quinto) the development of the Burdened Property by our said disponees shall be substantially completed in accordance with any relevant Planning Consent or other statutory consents within a period of four years from 23 Jul. 2007 and (Sexto) without prejudice and in addition to all existing rights of access over the aftermentioned road howsoever constituted, a non-exclusive temporary heritable and irredeemable servitude right of access for both pedestrian and vehicular traffic (including construction traffic) in favour of that part of the Pentland Land known as Wester Cowden Farm Steadings lying on or toward the south east of the subjects hereby disposed (the "Steadings") and the proprietors thereof from time to time and

all others authorised by them over the road shown coloured green on the said Supplementary Plan No. 4 to the Title Plan so far as lying within the boundary of the Burdened Property and for all reasonable purposes including construction traffic but subject to such regulation as to usage as may be prescribed by the Planning Authority. The rights hereby created are so created subject always (1) to the party exercising the same making good as soon as reasonably practicable any damage caused in exercise thereof (except where, after adoption, such responsibility is passed to the Local Authority or other body), (2) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience, (3) to such rights being exercised at the sole cost of those exercising the rights and (4) to such rights automatically terminating upon completion by our disponees of an alternative access route through the subjects hereby disposed leading to the Steadings (the "Alternative Access") to a standard acceptable to the Local Authority to permit pedestrian and vehicular traffic to pass thereover, and we and our foresaids as proprietors of the Steadings bind and oblige ourselves to grant a discharge of the servitude right hereby created on the request of our disponees following construction of the Alternative Access; And we declare that this deed is a constitutive deed creating real burdens within the meaning of Sections 4 and 122(l) of the Title Conditions (Scotland) Act, and that no application may be made to the Lands Tribunal for Scotland under Section 90(1)(a)(i) and Section 91 of the last mentioned Act in respect of the real burdens and servitudes hereby created for a period of five years after the registration hereof in the Land Register of Scotland.

Burden 6

Disposition by George Wimpey East Scotland Limited to Redrow Homes (Scotland) Limited, registered 23 Jul. 2007, of 4.827 hectares of ground at Wester Cowden, Dalkeith, being the subjects edged red on the Title Plan, contains inter alia the following real burdens and servitudes:

WHEREAS Pentland Limited and Grange Estates (Newbattle) Limited have granted the Deed of Servitudes and Conditions in Entry 4 for their respective interests in subjects including the subjects hereby disposed we HEREBY CONFIRM that where the terms "the Spine Road", "the Distributor Road", "the Pentland Land", "the Pentland Development", "Main Sewer", "Services Infrastructure", "Planning Consent" and "Plot" are used in these presents they shall have the same defined meanings as those ascribed to them in the said Deed of Servitudes and Conditions and, where appropriate, shall be as shown on the Supplementary Plan No. 3 to the Title Plan; And we therefore grant In favour of our said disponees and their foresaids; (First) a non-exclusive heritable and irredeemable right of access over and in respect of the Spine Road, the Distributor Road, and any other roads, footpaths or cycle paths installed or to be installed within the Pentland Land as part of the Pentland Development and that for pedestrian and vehicular traffic and for all reasonable purposes, but subject to such regulation as to usage thereof as may be prescribed by the Planning Authority; The right hereby granted is so granted subject always (i) to our said disponees and their foresaids making good as soon as reasonably practicable any damage caused in the exercise thereof (except where, after adoption, such responsibility has passed to the Local Authority or other body), (ii) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience to the heritable proprietors of the Pentland Land or any part thereof, (iii) to such rights being exercised at the sole cost of those exercising the rights and without recourse to the heritable proprietors of the Pentland Land, and (iv) the exercise of such rights being prohibited

over any Plot; and (Second) a non-exclusive heritable and irredeemable right of wayleave to connect with, use, clean, empty, inspect, maintain and where necessary renew any Services Infrastructure, and expressly including the Main Sewer, installed in the Pentland Land as part of the Pentland Development and required for usage, as a condition of any statutory consent or otherwise, in connection with the Pentland Development or any part thereof;. Declaring that the right hereby granted may be exercised, on behalf of the heritable proprietors of the Wimpey Subjects (being the disposed subjects in the Disposition in Entry 5 of this Section) by any contractors, agents, workmen, statutory authorities or public utilities or other third parties whom they may nominate. The rights hereby granted are so granted subject always (i) to our said disponees making good as soon as reasonably practicable any damage caused in the exercise thereof (except where following adoption such responsibility has passed to the Local Authority or another body), (ii) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience to us and our foresaids; (iii) to such rights being exercised at the sole cost of those exercising the rights and without recourse to us and our foresaids, and (iv) the exercise of such rights being prohibited over any Plot unless any Planning Consent or other statutory consent relating to the installation of any Services Infrastructure so requires;

AND WITH AND UNDER the following real burdens and reservations of servitude rights which, for the avoidance of doubt, are created for the benefit of the Wimpey Subjects (the Wimpey Subjects being referred to as 'the Benefited Property') and as reservations in respect of. and burdens upon, the subjects hereby disposed (the subjects hereby disposed being referred to as 'the Burdened Property') videlicet:- the Burdened Property is hereby burdened in favour of the Benefited Property, or any part thereof, and the proprietors from time to time thereof or any part thereof, with (Primo) a non-exclusive heritable and irredeemable servitude right of access for both pedestrian and vehicular traffic (including construction traffic) in respect of the Distributor Road and the Spine Road so far as lying within the boundary of the Burdened Property and for all reasonable purposes but subject to such regulation as to usage as may be prescribed by the Planning Authority, The rights hereby created are so created subject always (1) to the party exercising the same making good as soon as reasonably practicable any damage caused in exercise thereof (except where, after adoption, such responsibility is passed to the Local Authority or other body), (2) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience and (3) to such rights being exercised at the sole cost of those exercising the rights; (Secundo) a non-exclusive heritable and irredeemable servitude right of wayleave to install, connect with, use, clean, empty, inspect, maintain and where necessary renew any Services Infrastructure and expressly including the Main Sewer installed in the Burdened Property and required for usage as a condition of any statutory consent or otherwise in connection with the Pentland Development or any part thereof. Declaring that the rights hereby granted may be exercised on behalf of the heritable proprietors of the Benefited Property by any contractors, agents, workmen, statutory authorities or public utilities or third parties nominated by the heritable proprietors of the Benefited Property. The rights hereby created are so created subject always (1) to the party exercising the same making good as reasonably practicable any damage caused in the exercise thereof (except where following adoption such responsibility has passed to the local authority or other body); (2) such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience; (3) to such rights being exercised at the sole cost of those exercising the rights; (4) the exercise of such rights being prohibited over any Plots unless any Planning Consent or other statutory consent relating to the installation of any Services Infrastructure so requires; (Tertio) a non-exclusive heritable

and irredeemable servitude right of access over and in respect of any roads, footpaths, cycle paths installed or to be installed within the Burdened Property and that for pedestrian and vehicular traffic (as appropriate) and for all reasonable purposes but subject to such regulation as to usage thereof as may be prescribed by the Planning Authority. The rights hereby granted are so granted subject always (1) to the party exercising the same making good as soon as reasonably practicable any damage caused in the exercise thereof (except where, after adoption, such responsibility has passed to the Local Authority or other body); (2) to such rights being exercised at all time so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience; (3) to such rights being exercised at the sole cost of those exercising the rights; (Quarto) with regard to construction of the Distributor Road, the Spine Road and any Services Infrastructure lying beneath or adjacent to them or either of them or required to facilitate development of the Wimpey Subjects, heritable and irredeemable servitude rights of access to the Burdened Property, for the purposes of installation, construction, maintenance, renewal and cleaning or completion of the Distributor Road, the Spine Road and/or the Services Infrastructure as aforesaid or any portion thereof lying within the boundary of the Burdened Property, such rights extending beyond the specific routes of the Distributor Road, the Spine Road and Services Infrastructure so far as may be required to exercise the same, by way of access for construction traffic, site access, storage of materials or spoil, erection of compounds, or such other purposes as may be reasonably required, provided always that the party exercising such rights shall ensure that they are exercised so as to cause the minimum of inconvenience to occupiers or owners of the land affected, exercised only for so long as may be reasonably required to complete construction of the Distributor Road, the Spine Road and/or Services Infrastructure as aforesaid, and that all and any surface or other damage caused by the exercise of such rights is properly made good as soon as reasonably possible and in any event within 6 months of completion of construction of the Distributor Road, the Spine Road and Services Infrastructure, or relevant portion thereof. Declaring where the route or routes of the Distributor Road, the Spine Road and associated Services Infrastructure vary from those shown on the Plan annexed to the said Deed of Servitudes and Conditions, (the routes shown not being conclusive) then the rights and obligations hereinbefore granted and created will be deemed to have been varied accordingly in order to accommodate such change of route or routes; and (Quinto) the development of the Burdened Property by our said disponees shall be substantially completed in accordance with any relevant Planning Consent or other statutory consents within a period of four years from the Date of Entry, being 25 Jun. 2010; And we declare that this deed is a constitutive deed creating real burdens within the meaning of Sections 4 and 122(1) of the Title Conditions (Scotland) Act, and that no application may be made to the Lands Tribunal for Scotland under Section 90(1)(a)(i) and Section 91 of the last mentioned Act in respect of the real burdens and servitudes hereby created for a period of five years after the registration hereof in the Land Register of Scotland.

Burden 7

Deed of Conditions registered 23 Jun. 2010, by Redrow Homes (Scotland) Limited, proprietor of the land edged red on the Title Plan, contains the following real burdens and declarations:

PART 1: INTERPRETATION

In this deed:

“Developer” means Redrow Homes (Scotland) Limited incorporated under the Companies Acts (Registered Number SC74732) and having our Registered Office at Redrow House, Three Central Park Avenue, Larbert, Falkirk, FK5 4RX and their successors in title to any area within the Development which is not a Plot and upon which a minimum of four Plots are, or are intended to be erected and when there is more than one Developer in any question between the Developer and Plot Proprietor, the Developer shall be that party having had most recent right or title to the Plot to which the Plot Proprietor has right.

“Common Areas” means the Development under exception of:

(a) the Plot

(b) the solum of any Block of flatted dwellinghouses

(c) all prospectively adoptable roads, footpaths and parking spaces

(d) any electricity sub-stations feeder pillars and gas governors or any other area conveyed to a statutory undertaking or utility company

(e) all other parts or the Development specifically conveyed to a third party or to two or more third parties

(f) any area disposed or to be disposed to the Greenbelt Group Limited, The Woodland Trust or their successors or any associated body or to the Local Authority

and it includes (but is not limited to) the open spaces, amenity areas, landscaped areas, surface water attenuation structures, storm water treatment ponds, sustainable urban drainage systems, filtration trenches, play areas (including any play equipment thereon), woods, access ways and field drains running through those areas, culverts, footways and water courses running through or alongside these areas;

“Development” means the land edged red on the Title Plan;

“Factor” means the factor appointed under Rule 10.1(a);

“Plot” means any heritable property within the Development which is designed to be held in separate ownership and on which a house or flatted dwellinghouse is, or is to be, erected;

“Plot Proprietor” means the person (other than the Developer) who has right to any Plot whether or not that person has completed title (and if more than one person comes within that description means such person as has most recently acquired such right); and where two or more persons have right to a Plot pro indiviso “Plot Proprietor” means both or all of them;

PART 2: COMMUNITY BURDENS

A. LEGAL STATUS OF THE RULES

Rule 1 Status of Rules and Date of Creation

1. 1 The Rules set out in this Part are imposed on the Development as

(a) community burdens (in which the community is the Development), and

(b) real burdens in favour of any Plot of which the Development is the proprietors;

but Rule 14 is a manager burden (only).

Rule 2 Variation and Discharge

2. No application may be made to The Land Tribunal for Scotland under Section 90(l)(a)(i) and/or 91(1) of The Title Conditions (Scotland) Act 2003 in respect of the real burdens and servitudes contained herein for a period of 5 years after the registration of this deed in The Land Register of Scotland.

B. THE PLOTS

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

Rule 4- Boundary Walls, Fences, Footpaths and Driveways

4. 1 Where a boundary wall, fence or hedge separates two or more Plots said wall or fence or hedge shall be erected as to one half on each of the adjoining Plots and shall thereafter be maintained by the adjoining Plot Proprietors jointly.

4.2 The wall, fence or hedge must not exceed 1.8 metres in height and must be maintained in a good state of repair.

4.3 In respect of any footpath or driveway which is used for accessing two or more Plots, the Plot Proprietors of the Plots which take access over same shall be liable for maintaining and repairing such footpath or driveway on the basis of an equal share per Plot and each of said Plot Proprietors shall have a common right of access over such footpath or driveway.

Rule 5 - Visibility Splays

5.1 This rule applies to any visibility splay in a Plot. A visibility splay means such an area along the perimeter of a Plot as requires to be kept unobstructed so as not to prejudice the line of sight or visibility of any road user.

5.2 Nothing can be planted or allowed to grow on a visibility splay other than grass seeding or turf.

5.3 No building or other structure or obstruction can be erected on a visibility splay.

C. THE COMMON AREAS

Rule 6

6.1 The Plot Proprietors shall be responsible equally among them for the maintenance and renewal of the Common Areas and the prospectively adoptable road, footpaths and parking spaces as provided for in terms of Rule II hereof. The obligation contained in this rule shall extend to and includes (but is not limited to) maintenance of the open spaces, amenity areas, landscape areas, surface water attenuation structures, storm water treatment ponds, drainage systems (including SUDS), filtration trenches, play areas (including any play equipment thereon), woods, access ways and field drains running through the Common Areas, culverts, the lighting, electricity supplies, dabbles, fittings, fences, walls, steps, hedges, gates, the sewerage pumping station and all equipment relating thereto, sewers, drains, gas and mains water supply pipes, electricity mains and cables and other cables in so far as situated within the Common Areas.

6.2 The Common Areas shall remain open and unbuilt upon in all time coming except as otherwise agreed by the Developer.

6.3 The Common Areas shall be maintained by the Plot Proprietors in a clean and tidy condition to the satisfaction of the Developer and/or that of the Factor, and the cost of maintenance thereof shall be borne by the Plot Proprietors in equal shares.

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

Rule 7- Decision-Making by Meeting

7.1 Except where Rule 14 applies, the Plot Proprietors may make decisions in respect of the matters specified in Rule 10 at any meeting called in accordance with this Rule.

7.2 A meeting may be called by -

(a) any six Plot Proprietors;

(b) the Factor; or

(c) the Developer

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

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

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

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

7.4 Any inadvertent failure to comply with Rule 7.3 as respects any Plot Proprietor does not affect the validity of proceedings at a meeting.

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

Rule 8- Conduct of Meeting

8.1 A meeting is not to begin unless there is present or represented a quorum, that is to say, twenty five per cent of the Plot Proprietors entitled to attend.

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

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

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

8.3 A meeting may be postponed only once; and if at a postponed meeting the provisions in Rule 8.1 as respects a quorum are not satisfied, then the Plot Proprietors who are present or represented are to be deemed a quorum.

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

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

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

8.7 Any Plot Proprietor present or represented may nominate additional business to be transacted.

Rule 9-Voting

9.1 One vote is allocated to each Plot; and any right to vote is exercisable by the Plot Proprietor or his mandatory.

9.2 If a Plot is held by two or more persons, the vote allocated to that Plot 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 Plot.

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

9.4 But where the Developer is proprietor of any Plot, no decision is made unless it is supported by the vote for that Plot.

9.5 A decision on a matter specified in Rule 10 is binding on all the Plot Proprietors and on their successors as Plot Proprietors.

Rule 10- Matters on which Decisions May be Made

10.1 At a meeting the Plot Proprietors made decide

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

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

Rule 11-Liability for Costs

11.1 Maintenance and other costs (including any lighting costs) arising out of a binding decision on a matter specified in Rule 10 are shared equally among the Plots, and each Plot Proprietor is liable accordingly.

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

11.3 Where a cost cannot be recovered from a Plot Proprietor for some reason such as that-

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

(b) that Proprietor cannot, by reasonable inquiry, be identified or found.

then that share must be paid by the other Plot Proprietors as if it were a cost maintained in Rule 11.1

Rule 12- Annual Maintenance Charge

12.1 Each Plot Proprietor must pay to the Factor (or to a person nominated for that purpose) the maintenance charge fixed in accordance with Rule 10 (h).

12.2 The maintenance charge is an advance payment in respect of a Plot Proprietor's liability under Rule 11.

12.3 Where, in any year, the annual maintenance charge exceeds a Plot Proprietor's liability under Rule 11, the excess is to be retained as an advance payment for liability in subsequent years.

12.4 If requested to do so by any Plot Proprietor in writing, the Factor must within two months of the eleventh November made available -

(a) at a meeting of the Plot Proprietors or

(b) if the Plot Proprietors so requests, at the Factor's place of business

a full and vouched statement of account of his intromissions in respect of the period of twelve months ending on the eleventh November.

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

Rule 13 - Initial Deposit

13.1 On taking entry to a Plot, a Plot Proprietor must pay to -

(a) the Factor, or

(b) a person nominated for that purpose, or

(c) in a case where Rule 14 applies, the Developer

an initial deposit.

13.2 The initial deposit is £150 or such other sum as may be fixed in accordance with Rule 10(i).

13.3 On ceasing to be Plot Proprietor a person is entitled to repayment of the initial deposit -

(a) without interest; and

(b) under deduction of any sums due by that person under Rule 11;

but no repayment is due until the initial deposit has been paid by the new Proprietor of the Plot.

Rule 14- Decision-Making by the Developer

14.1 This Rule creates a manager burden in favour of the Developer and applies -

(a) for the period of five years beginning with the date on which this deed is registered;

(b) for the period during which the Developer is proprietor of at least one Plot or part of the Development;

whichever is the shorter.

14.2 The Developer or their nominees may make decisions in respect of the matters specified in Rule 10, and any such decision is binding on all the Plot Proprietors and on their successors as Plot Proprietors.

D: THE DEVELOPMENT

Rule 15- roads and vehicles etc

15.1 No caravans or commercial vehicles can be parked on the Common Areas or the prospectively adoptable roads.

15.2 All roads, paths and footways (other than those within a Plot) must be kept free from obstruction. The Plot Proprietors will be bound to concur in any application by the Developer to have the roads, footpaths and any parking bays adopted by the Local Authority.

15.3 In respect of any driveways and/or footpaths etc which are used exclusively by one or more Plots, the Proprietor of the Plots concerned shall be jointly responsible for the maintenance thereof and the maintenance costs shall be shared equally between the Plots concerned.

Rule 16- dogs

16.1 No dog is permitted on the Common Areas unless it is -

(a) kept on a lead; and

(b) accompanied by a responsible person.

16.2 No dog must be allowed to foul any part of the Common Areas.

PART 3: SERVITUDES

A. Community Servitudes

Benefited and burdened properties

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

Use of roads

A.2 There is a right of access for pedestrian and vehicular traffic over all prospectively adoptable roads, footpaths, parking spaces and lanes within the Common Areas and within the Development in so far as they lead to or from the Common Areas.

B. Development Servitudes

Benefited and burdened properties

B.1 The rights in this Clause B are imposed as servitudes on the Development in favour of the Plots (the Benefited Property)

Use of roads

B.2 There is a right of access for pedestrian and vehicular traffic (including construction traffic) over all prospectively adoptable roads, footpaths, parking spaces and lanes within the Development (including the Common Areas). This includes a right to form, construct, re-design and re-align the roads, footpaths, parking spaces and lanes.

Service media

B.3 There is a right to lead pipes, cables, wires or other enclosed units over or under (i) the Common Areas; and (ii) all roads, footpaths, parking spaces, and lanes within the Development in so far as they lead to or from the Common Areas for sewerage, drainage, electricity, gas, water and all other necessary purposes.

B.4 This includes a right

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

(b) to connect into such drains (including without prejudice to the foregoing any SUDS ponds), sewers, electric cables, gas and water mains, and other pipes, cables and enclosed units as already exist or are installed by virtue of paragraph (a), and

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

Extent and duration

B.4 The rights conferred by this Clause B may be exercised in respect of any current or future development of the Benefited Property (including development for housing).

B.5 The rights conferred by this Clause (other than Clause B.3) are extinguished in respect of any Plot in the Benefited Property when that Plot ceases to be owned by Developer.

C. Building Servitudes

Benefited and burdened properties

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

Access for construction

C.2 There is a right of access for the purpose of the erection of a house or other structure including walls, fences, roads, pavements and landscaping on any other Plot,

C.3 This includes a right -

- (a) to erect and dismantle scaffolding;
- (b) to move or remove part or parts of any wall or fence;
- (c) intrude into the airspace of any other Plot.

Re-positioning of fences

C.4 There is a right to re-position any boundary wall or fence so as to accord with the title plans.

C.5 There is a right of access to all service strips, visibility splays and wayleaves including the right to inspect, maintain, renew and re-establish same with a right of relief against the Plot Proprietor.

D.1 The rights in this Rule are imposed as servitudes on a Plot in favour of an adjoining Plot.

D.2 Where the eaves of a dwellinghouse or garage constructed by the Developers overhang an adjoining Plot within the Development there shall be a servitude right constituted in favour of the Plot to which the eaves pertain over the said adjoining Plot for the purpose of retaining and maintaining said eaves.

D.3 This right includes all necessary rights of access to and egress from the adjoining Plot.

E. Manner of Exercise of Rights

In the exercise of the servitude rights conferred by this Deed, disturbance and inconvenience must be kept to a minimum, and all damage must be made good.

F. Rights in Favour of Statutory Undertakers

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

F.2 There is hereby specially reserved a servitude right of wayleave in favour of the Development, the relevant Local Authority bodies and their statutory successors, the relevant Water Authority, Scottish Power plc, British Gas, Transco, British Telecom and any other public utility or appropriate Local Authority and their successors and Agents and Contractors and any other persons or person interested therein for any line or lines of drains, field drains, sewers and ancillary structures, water mains and pipes, gas, electricity and telecommunications pipes and cables, telegraphic plan and other communication and all other pipes, lines and cables under, in, upon, over, along or across the Development as presently existing or which the Developers may at any time consider necessary or expedient for the drainage and service of the Development along the presently existing routes

thereof and by such route or routes as the Developer may consider reasonable and convenient (service media) and to connect up to and link in with any such service media but not passing under the buildings to be erected on the said Plots together with a right of access to all the said service media and the route or routes thereof wherever necessary in favour of the Developer or the said relevant Local Authority bodies, the relevant Water Authority, Scottish Power plc, British Gas, Transco, British Telecom and any other public utility or appropriate Local Authority and their successors, Agents and Contractors for the purpose of laying, inspecting, clearing maintaining, repairing or renewing the said service media, the person or persons or Statutory Undertakers in terms of the relevant Statutory Enactments being bound to make good any damage occasioned by his or their operations; And without prejudice to the foregoing it is specifically provided that the Factor shall have a right of access over any Plot to the service media for the purpose of inspecting, clearing, maintaining, repairing or renewing the said service media and all others and all pipes, lines, cables or any of them.

Burden 8

Supplementary Deed of Conditions, registered 30 Jan. 2014, by Redrow Homes Limited, proprietors of the Development hereinafter defined, hereby provides as follows:

1 Definitions, Interpretation and Construction 1.1 Definitions

In this Deed:

"Redrow (Scotland) Limited Deed of Conditions" means the Deed of Conditions effected by Redrow Homes (Scotland) Limited in Entry 7 of this Section.

"Developer" means Redrow Homes Limited incorporated under the Companies Acts (Registered number 01990710) and having their Registered Office at Redrow House, St David's Park, Flintshire, CH5 3RX and their successors as proprietors of the Development.

"Block" Means any block of flatted dwellinghouses or apartments within the Development.

"Common Footpath" Means the areas tinted yellow on the Title Plan.

"Development" means ALL and WHOLE the subjects edged red on the said Title Plan.

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

"Block Common Parts" means those parts of any block of flatted dwellinghouses within the Development including but not restricted to the roof, supporting walls, rainwater goods, and Service Media serving the Units within the Block and also including any area of ground surrounding the Block, the footpaths leading to the Block and the areas tinted pink on the said Title plan.

"Service Media" means the pipes, drains, wires, conductors, electric cables, telephone cabling, transmitters, connections and other conduits and apparatus providing utilities and services to the any Block of flatted dwellinghouses within the Development and contained with the Development;

"Unit" means any one of the flats or apartments comprised in any Block of flatted dwellinghouses within the Development which is designed to be held in separate ownership;

1.2 Interpretation and Construction

Except 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 in 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 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;

1.2.9 any phrase introduced by the words "including", "include", "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 Manager by this Deed of Conditions may be validly exercised by any person duly authorised by such Owner or the Manager including its tenants, agents and tradesmen, but subject to any limitations or restrictions imposed upon such Owner or the Manager by this Deed.

2 Community Burdens

2.1 Creation

2.1.1 The conditions set out in Condition 3 are imposed on the Units within any Block in the Development as community burdens.

2.1.2 The Conditions set out in Conditions 4 and 5 are imposed on the Units within the Development as community burdens.

2.1.3 To the extent that the Developer is the Owner of any Unit, the conditions set out in Conditions 2 to 5 are real burdens in favour of such Unit

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 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.

2.3 Variation and Discharge of community burdens

A community burden created in terms of this Supplementary Deed of Conditions may be varied or discharged 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 75% per cent of the Units, or

2.4 Lands Tribunal applications

No application may be made to the Lands Tribunal for Scotland under sections 90(l)(a)(i) and 91(1) 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. Maintenance and Use of the Block Common Parts

3.1 Each of the Owners within a Block shall bear an equitable share of the cost of maintaining, repairing and where necessary renewing the Block Common Parts which shall be kept in good condition and repair at all times.

3.2 The Owners from time to time of the Units within any Block will benefit from an equal pro indiviso share of the Block Common Parts subject to each of the said Owners bearing an equitable share of the cost of maintaining, repairing and where necessary renewing the Block Common Parts.

3.3 The Owners shall be prohibited from drying laundry in any open space forming part of the Block Common Parts and no clothes line or whirlygigs shall be erected otherwise than in an area designated for clothes drying.

3.4 No garbage cans or ash buckets or any other form of refuse receptacle or any other articles of any nature shall be permitted to be left or deposited otherwise than in an area designated for refuse receptacles and in accordance with the regulations and recommendations of the local authority.

4 Common Footpath

4.1 Where a Common Footpath serves a Block or a row of terraced dwellinghouses each of the owners within such Block or row of dwellinghouses will benefit from an equal "pro indiviso" share of the Common Footpath subject to each of the owners bearing an equitable share of the cost of maintaining, repairing and where necessary renewing the Common Footpath.

4.2 The Common Footpath shall be kept open and free from destruction at all times.

5 Shared Driveway

5.1 Where any two or more dwellinghouses within the Development share a common driveway each of the owners of a Unit served by such common or shared driveway will benefit from an equal "pro indiviso" Share of such shared driveway subject to each of the owners bearing an equitable share of the cost of maintaining, repairing and where necessary renewing the common driveway.

5.2 Any common or shared driveway shall be kept open and free from obstruction at all times.

6 Factor

The whole provisions contained in the Redrow (Scotland) Limited Deed of Conditions shall apply to any Block within the Development and the terms of this deed are supplementary thereto. The Factor as provided for in terms of the Redrow (Scotland) Limited Deed of Conditions shall apportion the whole costs of maintenance and upkeep of the Block Common Parts and the

Common Footpath on an equitable basis in accordance with the terms of this Supplementary Deed of Conditions.

7 Disputes

Any questions disputes or differences which may arise among any of the Owners in respect of maintenance and repair of Block Common Parts, Common Footpath or Shared Driveway or the apportionment of the costs thereof 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 by 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.

Note: The conditions imposed by the said Deed of Conditions will take effect, in respect of a Unit, on the date of registration in the Land Register of Scotland of a disposition of that Unit in which the conditions in the said Deed of Conditions are expressly stated to apply. The conditions have been made effective in respect of the subjects in this Title.



Burden 9

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. This is notwithstanding any additional information that may have been disclosed by the Keeper in respect of those properties.

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| <div></div> <div>LAND REGISTER OF SCOTLAND</div> | | Officer's ID / Date | TITLE NUMBER |
| | | 2908 9/12/2014 | MID153884 |
| <div></div> | ORDNANCE SURVEY NATIONAL GRID REFERENCE | | <div><div></div><div>70m</div><div></div></div> |
| NT3467SE NT3467NE NT3567 | | | Survey Scale |
| | | | 1/1250 |

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