



# Title Information: LAN216338

## Search summary

<b>Date/Time of search</b>	15-08-2023 20:11:38
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<b>Payment reference number</b>	TMW5-5K2W-FGSF-2X7K
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**Section A****LAN216338**

## Property

<b>Date of first registration</b>	27-01-2014
<b>Date title sheet updated to</b>	03-08-2023
<b>Hectarage Code</b>	18.8
<b>Real Right</b>	OWNERSHIP
<b>Map Reference</b>	NS7052
<b>Title Number</b>	LAN216338
<b>Cadastral Unit</b>	LAN216338
<b>Sasine Search</b>	62774 31979
<b>Property address</b>	WHITECRAIGS COTTAGE MEIKLE EARNOCK ROAD, HAMILTON ML3 8RN

**Description**

Subjects cadastral unit LAN216338 WHITECRAIGS COTTAGE, MEIKLE EARNOCK ROAD, HAMILTON ML3 8RN tinted pink, blue and yellow on the cadastral map being 18.8 hectares in measurement on the Ordnance Map; together with (one) in regard to the part tinted pink on the cadastral map, a servitude over the adjoining lands of leading drainage from the dwellinghouse and other buildings erected on the subjects in this Title through the said adjoining lands with power to the proprietor of the said part tinted pink on the cadastral map to enter on the said adjoining lands for the purpose of inspection, maintenance and renewal of the drainage pipes, the proprietor of the subjects in this Title being under obligation to restore any damage caused by such operations, (two) the servitude rights specified in the Deeds of Conditions in Entries 5 and 9 of the Burdens Section, (three) the servitude rights specified in Part 2 of the Dispositions in Entries 6 and 8 of the Burdens Section and (four) the subsisting rights to real burdens specified in the Schedule of Particulars relative to Subsisting Rights to Real Burdens below.

**Notes**

1. The minerals are excepted. The conditions under which the minerals are held are set out in the Disposition in Entry 1 of the Burdens Section.
2. The said servitude right in regard to the part tinted pink on the cadastral map was created in the Disposition in Entry 3 of the Burdens Section.
3. The parts edged and numbered in green on the cadastral map have been removed from this cadastral unit.
4. The parts specified in the Schedule of Removals below have been removed from this Title.
5. The description of the burdened property in each entry of the Schedule of Particulars relative to Subsisting Rights to Real Burdens above should be read in conjunction with the Explanatory Note in the Burdens Section.

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

<b>Entry No</b>	<b>Benefited Property</b>	<b>Real Burdens</b>	<b>Burdened Property</b>
1	subjects in this Title and other subjects	Deed of Conditions by James Baird and another, recorded (GRS) Lanark 20 Apr 2017, in Entry 5 of the Burdens Section.	Subjects at Brackenhill Farm tinted blue, yellow, brown and edged brown on the cadastral map.
2	that part of the subjects in this Title edged yellow on the cadastral map	Deed of Conditions by Stewart Milne Group Limited, registered 14 Jun 2017, in Entry 7 of the Burdens Section.	Subjects at Brackenhill Farm tinted pink, blue and yellow on the cadastral map.
3	that part of the subjects in this Title tinted blue and yellow on the cadastral map	Disposition to Bellway Homes Limited, registered 14 Jun 2017, in Entry 8 of the Burdens Section	Subjects 5.25 hectares of ground at Meikle Earnock Road edged and numbered 1 in green on the cadastral map and registered under Title Number LAN229099
4	subjects in this Title and other subjects	Deed of Conditions by (i) Stewart Milne Group Limited and (ii) Bellway Homes Limited, registered 9 Mar.2018, specified in Entry 9 of the Burdens Section.	"Development" as defined in said Deed of Conditions.
5	subjects in this Title	Disposition to Taylor Wimpey UK Limited, registered 8 Nov 2021 specified in Entry 14 of the Burdens Section.	The Conveyed Property specified in said Disposition.

## Schedule of Removals

<b>Entry No</b>	<b>No on Plan</b>	<b>Subjects</b>	<b>Date of Registration</b>
1	214 in mauve	1/2 pro indiviso share	Land Register 17-05-2023

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## Section B

**LAN216338**

### Proprietorship

STEWART MILNE GROUP LIMITED incorporated under the Companies Acts (Registered Number SC057709) and having their Registered Office at Peregrine House, Mosscroft Avenue, Westhill Business Park, Westhill, AB32 6TQ.

<b>Entry number</b>	1
<b>Date of registration</b>	04-08-2015 part tinted pink on the cadastral map.
<b>Date of Entry</b>	17-07-2015
<b>Consideration</b>	£265,000

Said STEWART MILNE GROUP LIMITED

<b>Entry number</b>	2
<b>Date of registration</b>	14-06-2017 parts tinted blue and yellow on the cadastral map.
<b>Date of Entry</b>	22-05-2017
<b>Consideration</b>	£4,497,639

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## Section C

**LAN216338**

### Securities

<b>Entry number</b>	1
<b>Specification</b>	Standard Security by said STEWART MILNE GROUP LIMITED to BANK OF SCOTLAND plc incorporated under the Companies Act (Registered Number SC327000), Registered Office The Mound, Edinburgh EH1 1YZ as Security Trustee.
<b>Date of registration</b>	23-06-2017

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## Section D

**LAN216338**

### Burdens

Number of Burdens: 17

#### **Burden 1**

Disposition by Trustees for Sir John Watson to Douglas Hamilton Watson and his heirs and assignees, recorded G.R.S. (Lanark) 21 Apr. 1937, of 12 plots of ground, contains the following burden:

Excepting and reserving always from the lands and others hereinbefore disposed the whole mines, metals and minerals of every kind and description belonging to us as Trustees foresaid, other than freestone or whinstone, lying in and under the said several lands, with full power to us as Trustees foresaid and our disponees or our or their tenants in said minerals to search for work, win, raise, stock, calcine and carry away, and to make and form hills for depositing the same, and to make bores, sink pits, open quarries, erect houses and machinery, and to make aqueducts, levels, drains roads, railways or tramways, and all others necessary for all or any of these purposes, upon payment to our said disponent and his foresaids of such damages as may be thereby occasioned to the surface and of such rent for surface ground occupied by buildings etcetera as the same may be ascertained and fixed by two arbiters, one to be chosen by each party, or by an oversman to be appointed by said arbiters in the event of their differing in opinion, Declaring that the sites of any new pits or additional coalhills and additional houses or other buildings or erections, and the sites or routes of any additional roads, railways, tramways or others shall have the approval of our said disponent or his foresaids before being erected or proceeded with, and failing agreement, the same shall be fixed by the arbiters or oversman as before mentioned.

#### **Burden 2**

Disposition by Douglas Hamilton Watson to Andrew McCracken, recorded G.R.S (Lanark) 6 Dec. 1950, of 108.0128 acres of the Farm and Lands of Brackenhill, with Cottages at Whitecraigs and Broomknowe, of which the subjects in this Title form part, contains the following burdens:

(First) My said disponent will make payment of one half of the cost of the march fence running from Torheads Lake to the Road and will thereafter maintain said fence jointly with the owner of the adjoining farm of Highstonehall;

(Second) my said disponent will erect at his own cost a fence between the subjects sold and the subjects to the South thereof reserved by me and known as Strachans Strip and will thereafter maintain the said fence in all time coming at joint expense with the proprietor of the said Strachan Strip;

(Third) my said disponent and his foresaids shall be bound to erect and maintain a fence at Torheads Lake from the boundary of the said lake with Highstonehall Farm to the boundary of

said Lake with Torhead farm and said fence shall be maintained by my said disponee and his foresaids so long as the said Lake as a water supply for any farms or others at Neilsland Estate

(Fourth) my said disponee and his foresaids shall grant access to the said Torheads Lake to me and my successors and to all other parties drawing water from the filters situated on the said lake so long as any parties continue to draw water from the said Lake;

(Fifth) my said disponee and his foresaids shall be bound to pay the proportion of the cost of upkeep of the filters at Balloon Plantation and all pipes so far as mutual to themselves and to other parties using the water supply from the said filters; And they shall further be bound to maintain the water supply pipes in their own ground in good condition and in the event of any break to have the same repaired immediately and failing said immediate repair by my said disponees there will be reserved to me and my successors the right to effect any such repair and to charge my said disponee and his foresaids with any cost thereof.

### **Burden 3**

Disposition by William Borland Junior to Alexander Super, recorded G.R.S (Lanark) 6 Jan. 1972, of Whitecraigs Cottage, Meikle Earnock, comprising that part of the subjects in this Title tinted pink on the cadastral map, contains the following burdens:

To bear a one-half share of the cost of maintenance and repair of all necessary hedges or fences which form boundaries between the subjects hereby disposed and other parts of the farm and lands of Brackenhill belonging to me;

And I bind and oblige myself to insert similar provisions, declarations and others in all future conveyances by me of any part of the remaining portion of the said farm and lands of Brackenhill.

### **Burden 4**

Minute of Agreement among (1) South Lanarkshire Council, (2) Executor Nominate of Andrew Baird, (3) James Alexander Waddell, Isobel Janet Brown or Waddell and Thomas Alexander Waddell the Partners and Trustees for the Firm of Waddells of Cornhill, (4) George Lindsay Ballantyne and (5) Stewart Milne Group Limited, registered 12 Apr. 2017 is incorporated into this title sheet in terms of section 10(3)(a) of the Land Registration etc. (Scotland) Act 2012.

### **Burden 5**

Deed of Conditions by James Baird ("the First Owner") and David Robert Lingard as Executor Nominate of Andrew Baird ("the Second Owner"), proprietors of subjects at Brackenhill Farm, recorded GRS (Lanark) 20 Apr 2017, provides as follows:

Whereas

(a) the First Owner is the owner of the First Property;



(b) the Second Owner is the owner of the Second Property;

(c) the First Owner has agreed to burden the First Property with the Real Burdens and Servitudes for the benefit of the Second Property;

(d) the Second Owner has agreed to burden the Second Property with the Real Burdens for the benefit of the First Property;

(e) the Consentor has agreed to the Second Property being burdened with the Real Burdens;

It is agreed by the parties as follows:

## 1 Definitions, Interpretation and Construction

### 1.1 Definitions

"Consentor" means Stewart Milne Holdings Limited, as heritable creditors in respect of the Second Property

"First Property" means the subjects on the southeast side of Meikle Earnock Road, Hamilton registered under Title Number LAN117295 and edged brown on the cadastral map;

"Servitudes" means the servitudes in Clause 3.1 imposed on the First Property in favour of the Second Property;

"Owner" means either the First Owner or the Second Owner;

"Real Burdens" means the real burdens set out in Clause 4 hereof;

"Road Servitude Area" means the area of ground tinted mauve on the cadastral map forming part of the Burdened Property or such additional area or areas as may be required to widen and upgrade Meikle Earnock Road and the footpaths, verges and landscaped areas relating thereto in terms of any planning permission and/or roads construction consent relating thereto, any such additional areas being agreed between the First Owner and the Second Owner both parties acting reasonably;

"Second Property" means the subjects tinted brown, blue and yellow on the cadastral map, which subjects form part and portion of the farm and lands at Brackenhill described in the Disposition to Andrew McCracken recorded GRS (Lanark) 6 Dec 1950 in Entry 2 of this Section, and of which Second Property those parts of the subjects in this Title tinted blue and yellow on the cadastral map form part;

"Service Media" means all pipes, cables, wires, sewers, drains, conduits, SUDS ponds and ancillary pipes and apparatus relating thereto and other service media in connection with the provision of water, drainage, sewerage, gas, electricity, telecommunications, street lighting apparatus and any other services;

"Servitude Condition(s)" means the conditions under which the Servitude Rights are to be exercised set out in Clause 3.2;

"Servitude Rights" means the servitude rights set out in Clause 3.1;

"SUDS Area" means the proposed SUDS basin and access road thereto edged blue on the cadastral map.

## 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 words importing individuals include legal persons and vice versa;

1.2.5 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;

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

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

1.2.8 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 by this Deed of Conditions may be validly exercised by any heritable creditor in possession and/or any person duly authorised by such Owner including its tenants, agents and tradesmen, but subject to any limitations or restrictions imposed upon such Owner by this Deed.

## 2 Application

## 2.1 Lands Tribunal applications

No application may be made to the Lands Tribunal for Scotland under sections 90(1)(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 Servitudes

3.1 The rights in this Condition are servitudes imposed on the First Property (which, for the purposes of this clause, is the Burdened Property) in favour of the Second Property (which, for the purpose of this clause, is the Benefited Property) for the purposes of facilitating development of dwellinghouses and any other permitted buildings or structures on the Second Property and the First Property:

3.1.1 a heritable and irredeemable right to construct, form, widen, inspect, maintain, repair and renew Meikle Earnock Road and any footpaths, verges and landscape strips relating thereto, including rights of access over the Road Servitude Area and the working area hatched green on cadastral map for such purposes together with the rights to install service media on, in, through and under the said road, footpaths, verges and landscape strips and with the right to apply for the adoption of the said road, footpaths, verges and landscape strips by the Roads Authority, the First Owner and the Second Owner being obliged to consent to road adoption if required;

3.1.2 a non-exclusive servitude right of access and egress at all times and for all purposes for pedestrians and vehicles (including heavy vehicles and construction traffic) including such rights over and across the Road Servitude Area and the said roads, footpaths, verges and landscaped areas once formed (which right shall, for the avoidance of doubt, apply to the proprietor of any part of the Benefited Property including all plot purchasers);

3.1.3 a heritable and irredeemable right to connect into, lay, form, construct and install Service Media within the Burdened Property as required for the development of the Benefited Property including such rights in respect of the foul and surface water sewers required to serve the Benefited Property along such routes as may be agreed from time to time between the proprietors of the First and the Second Property, both parties acting reasonably and thereafter all necessary rights to use, inspect, maintain, repair and where necessary renew Service Media.

3.1.4 All heritable and irredeemable rights necessary to construct, form inspect, maintain, repair and renew the SUDS basin and SUDS basin access road within the Burdened Property, the proposed locations of which are within the SUDS area, but the actual position of the SUDS basin and the access road shall be as determined by the planning permission, drainage technical approval and any other statutory consents relating to the proposed development on the Burdened Property and the Benefited Property or in the event of such permissions, approval or consents not having been issued with the reasonable development intentions of the parties with the right to apply for adoption of the said SUDS basin and facility, the Burdened Proprietor being obliged to consent to such adoption and, if necessary, to transfer title to the SUDS Area or any additional area on which the SUDS basin and access road are located to Scottish Water or their statutory successors;

3.1.5 a servitude right of wayleave for all Service Media in favour of the relevant Local or Public Authorities. Statutory Undertakers and other service providers serving the Benefited Property under, in, upon, over, along or across the Burdened Property from time to time. There are also reserved in favour of the Local or Public Authorities, Statutory Undertakers and other service providers and the like all necessary rights of access for the installation, connection, repair, maintenance, cleaning and renewal of Service Media in, through and under the Burdened Property provided that such rights may be exercised by any Local or Public Authority Statutory Undertakers or other service providers without any liability on the part of the First Owner and the Second Owner will grant any dispositions or servitude rights which may be requested by any Local or Public Authority, Statutory Undertakers or other service providers in respect of Service Media. Declaring that any of the foregoing rights will be exercised in such a way as not to materially interfere or prejudice the proposed development on the First Property.

3.2 The Servitude Rights are subject to the following Servitude Conditions:-

3.2.1 the parties exercising the Servitude Rights will:-

3.2.1.1 make good all physical damage caused to the First Property to the reasonable satisfaction of the owners of the Burdened Property; and

3.2.1.2 procure that the servitude rights are exercised (a) so as to cause the minimum disturbance, nuisance or annoyance reasonably practicable to the owner for the time being of the First Property and their tenants or occupiers and (b) in a manner that is not prejudicial to the proposed development on the First Property;

3.2.2 the Servitude Rights shall apply notwithstanding any change or intensification of use of the Second Property.

3.2.3 The First Property will have all necessary rights required to connect into the widened Meikle Earnock Road once formed and to connect into and use the said roads and footpaths, Service Media and SUDS pond and access road.

#### 4 Real Burdens

4.1 The real burdens and conditions set out in this Condition are imposed on the First Property and the Second Property together as community burdens.

The First Property and the Second Property together are for these purposes a Community for the purposes of Section 4 (4) of the Title Conditions (Scotland) Act 2003, and the First Property and the Second Property are each separate units for the purposes inter alia of Section 27 thereof.

#### 4.2

4.2.1 The net costs of completing the upgrading of the existing Meikle Earnock Road, adjacent to the First Property including all costs relating to forming, widening, repairing and renewing the said road and any footpaths, verges and landscaped strips related thereto and the costs of maintenance thereof until such time as the said road is adopted by the Local Authority shall be paid by the First Owner and his successors as proprietors of the First Property. Either the First

Owner or the Second Owner shall be entitled to undertake said works. The Owner who commences said works shall complete the works in a good and workmanlike manner. In the event that either party wishes to commence said works then before doing so they shall serve not less than 1 month's written notice on the other party intimating their intention to do so. In the event that the said works are completed by the Second Owner then the First Owner shall pay the proper and reasonable costs incurred in carrying out said works, all as evidenced on an open book basis by invoices from the contractors but provided that so long as the First Owner is the said James Baird and grants the Standard Security aftermentioned the foregoing payment obligations shall be postponed until the said James Baird has concluded a sale of the First Property or part thereof and on the incurring on any costs as aforesaid the Second Owner shall be entitled to require James Baird to grant a Standard Security in favour of the Second Owner over the First Property as security for payment of the proper and reasonable costs incurred in carrying out said works and the First Owner shall also be responsible for the proper and reasonable costs of repairing and maintaining said road until adoption, all as evidenced by invoices from the contractors.

4.2.2 The net costs of completing the SUDS pond and SUDS access road and the cost of maintenance thereof until such time as the said pond and road are adopted either by Scottish Water or by the Local Authority shall be paid by the owner of the First Property. In the event that the said SUDS pond and/or the SUDS pond access road are completed by the Second Owner then the First Owner shall pay to the Second Owner the proper and reasonable costs incurred in carrying out said works but provided that so long as the First Owner is the said James Baird and grants the Standard Security aftermentioned the foregoing payment obligations shall be postponed until the said James Baird has concluded a sale of the First Property or part thereof and on the incurring on any costs as aforesaid the Second Owner shall be entitled to require James Baird to grant a Standard Security in favour of the Second Owner over the First Property as security for payment of the proper and reasonable costs incurred in carrying out said works, all as evidenced by invoices from the contractors and the First Party shall also be responsible for the proper and reasonable costs of repairing and maintaining said works until adoption, all as evidenced by invoices from the contractors.

4.2.3 The Owner commencing the foregoing works described in Clauses 4.2.1 and 4.2.2 shall complete the said works in a good and workmanlike manner and in accordance with any relevant planning consents or other Local Authority or statutory consents granted in respect thereof and to a standard suitable for adoption by the Local Authority or other statutory undertakers. The Owner undertaking the works shall be obliged to first obtain all necessary planning permissions and statutory consents in respect of said works. In the event of there being any material delay in the completion of the said works then the other Owner shall be entitled to serve notice on the Owner carrying out the works, intimating that they require completion of the works within such reasonable period as may be determined (such period not being less than 2 months) and failing completion within the said period the Owner serving such notice shall be entitled to step in and complete said works.

## 5 Co-Operation

The First Owner and the Second Owner will both co-operate fully with regard to completion of the works referred to in Clause 4.2.

## 6 Consent

The Consentor consents to the grant of the servitudes and real burdens contained herein.

## 7 Expert Determination

All questions, disputes, differences and others which may arise among the First Party or the Second Party regarding (1) their rights and interest in this deed (2) any questions relating to the works which have been carried out or the cost thereof and (3) all other questions insofar as depending on or otherwise arising out of or in respect of these presents in any manner of way shall be referred to an independent expert by an independent surveyor (or other appropriate professional having regard to the nature of the dispute) with at least 10 years standing experience in residential developments, nominated in the absence of agreement between the parties on the application of either party by the Chairman or Vice Chairman of the Scottish Branch of The Royal Institution of Chartered Surveyors. The remit of such expert shall be to receive submissions from both parties within 10 Working Days of his appointment and determine the matter or matters in dispute within 28 Working Days of reference to him. The expert shall be entitled to find his fees due by either party in such proportion as he shall determine, which failing equally and the decision of the expert shall be final and binding on the parties.

## Burden 6

Disposition by David Robert Lingard as Executor Nominated of Andrew Baird ("the Seller") to Stewart Milne Group Limited ("the Purchaser"), registered 14 Jun 2017, of plot of ground at Meikle Earnock Road ("the Conveyed Property") being those parts of the subjects in this Title tinted blue and yellow on the cadastral map, contains the following servitude rights:

### PART 1

#### Interpretation

"Conveyed Property" means the subjects defined as such above;

"Purchaser" means the Purchaser as above defined;

"Retained Property" means the area of ground tinted brown on the cadastral map which subjects form part and portion of the farm and lands at Brackenhill extending to 108.128 acres or thereby all as the said farm and lands are described in the Disposition to Andrew McCracken recorded GRS (Lanark) 6 Dec 1950 in Entry 2 of this Section;

"the Seller" means the Seller as above defined;

"Service Media" means all pipes, cables, wire, sewers, drains, conduits and other service media in connection with the provision of water drainage, sewerage, gas, electricity, telecommunications and any other services;

### PART 2

The following servitude rights are imposed on the Retained Property in favour of the Conveyed Property:-

1 Heritable and irredeemable rights of access for vehicular and pedestrian traffic to and from the Conveyed Property for all purposes by routes leading from the nearest public road all in terms of the existing planning consents or to be agreed between the Purchaser and their successors in title and the Seller and their successors in title, both parties acting reasonably and which routes shall inter alia meet the approval of the Local Planning and Highways Authorities in relation to the continued use and development of the Conveyed Property;

2 All necessary and irredeemable rights to construct widen and repair, maintain and renew any such access roads and footpaths with all necessary rights of access for such purposes;

3 Heritable and irredeemable servitude rights to install all necessary Service Media and thereafter use the same in connection with the Conveyed Property with rights to lay and install, inspect, repair and improve, cleanse, maintain, renew, remove and replace, enlarge or alter the Service Media which are at the time or may thereafter be required for the development of the Conveyed Property with all necessary rights of access thereto ail along routes which meet the approval inter alia of the local planning, water and drainage authorities and other statutory undertakers;

4 All necessary, heritable and irredeemable rights of wayleave for all Service Media to the Conveyed Property;

5 Heritable and irredeemable servitude rights to maintain all necessary sightlines required in connection with the proposed development on the Conveyed Property to comply with all roads construction consents issued by the Local Authority;

7 All other heritable and irredeemable servitude rights which the Purchaser acting reasonably requires for the proposed development on the Conveyed Property;

The foregoing servitude rights shall be exercised reasonably and subject always to the Purchaser and their successors causing the least possible disturbance to the Seller and its successors as proprietors of the Retained Property and forthwith making good all damage occasioned thereby.

### PART 3

The following servitude rights are imposed on the Conveyed Property in favour of the Retained Property:-

1. Heritable and irredeemable rights of access for vehicular and pedestrian traffic over the roads and footpaths to be constructed within the Conveyed Property, together, insofar as possible, with rights to construct roads and footpaths over the Conveyed Property to connect into the said roads and footpaths and to provide access to the Retained Property by routes through the Conveyed Property to be agreed between the Purchaser and their successors in title and the Seller and their successors in title, both parties acting reasonably, and which routes shall inter alia take into account the requirements of immediate approval of the local planning

and highways authorities in relation to the continued use and development of the Conveyed Property.

2. A heritable and irredeemable servitude rights to install all necessary Service Media within the Conveyed Property including, (subject to obtaining any necessary consents) to connect into any Service Media installed by the Purchaser or its successors and thereafter use the same in connection with the provision of water, drainage, sewerage, gas, electricity, telecommunications and other services to the Retained Property with rights to lay, install, inspect, repair, improve, cleanse, empty, maintain, renew, remove and replace, enlarge or alter the Service Media which are at the time or may thereafter be required for the development of the Retained Property with all necessary rights of access thereto all along routes approved by the Purchaser and their successors in title such approval not to be unreasonably withheld and which meet the approval inter alia of the local planning, water and drainage authorities and other statutory undertakers; declaring that any such routes will not be through any areas of ground which are developed or are to be developed for houses and gardens relative thereto and shall be restricted to roads, footpaths and open space areas.

3. All necessary heritable and irredeemable rights of wayleave for all Service Media to the Retained Property

The foregoing servitude rights shall be exercised reasonably and so as to cause the least possible disturbance to the Purchaser and their successors as proprietors of the Conveyed Property and subject to forthwith making good ail damage occasioned thereby.

#### PART 4

No application to the Lands Tribunal

No application will be made to the Land Tribunal for Scotland under Section 90(1)(a)(i) of the Title Conditions (Scotland) Act 2003 in respect of the servitudes set out in Part 2 hereof and the servitudes set out in Part 3 hereof for a period of 5 years after the registration of this disposition in the Land Register of Scotland of Scotland.

### **Burden 7**

Deed of Conditions by Stewart Milne Group Limited, proprietors of the subjects in this Title comprising the Development tinted blue, yellow and pink on the cadastral map, registered 14 Jun 2017, provides as follows:

#### 1 Definitions, Interpretation and Construction

##### 1.1 Definitions

□Benefited Property□ means the area of ground edged yellow on the cadastral map which subjects form part and portion of the Development;

"Developer" means the said Stewart Milne Group Limited;



"Development" means the whole subjects at Brackenhill Farm, Meikle Earnock Road, Hamilton consisting of (First) that plot or area of ground at Meikle Earnock Road, Hamilton tinted blue and yellow on the cadastral map; and (Second) the subjects known as Whitecraigs Cottage tinted pink on the cadastral map;

"Owner" means at any time the owner at that time of the Benefited Property or any part or parts thereof, and where two or more persons own the Benefited Property includes both or all of them;

"Service Media" means all pipes, cables, wires, sewers, drains, conduits and other service media in connection with the provision of water, drainage, sewerage, gas, electricity, telecommunications and any other services;

## 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 by this Deed of Conditions may be validly exercised by any person duly authorised by such Owner including its tenants, agents and tradesmen, but subject to any limitations or restrictions imposed upon such Owner by this Deed.

### 2 Creation/Application

#### 2.1 Date of creation and application

The conditions imposed by this Deed of Conditions will take effect, in respect of the Benefited Property, on the date of registration in the Land Register of Scotland of this Deed of Conditions.

#### 2.2 Lands Tribunal applications

No application may be made to the Lands Tribunal for Scotland under sections 90(1)(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 Servitudes

The rights in this Condition are servitudes imposed on the Development in favour of the Benefited Property.

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

3.1.1 a right of access over the Development for pedestrian and vehicular traffic over the roads and footpaths to be constructed within the Development together with the rights to construct and/or connect into the said roads and footpaths where necessary to provide access to the Benefited Property along the route of the roads and footpaths as may be agreed between the Owner and the Developer and their successors in title, both parties acting reasonably, and which routes shall inter alia meet the approval of the local Planning and Roads Authorities;

3.1.2 a right to lead Service Media over or under the Development (but not over any parts of the Development on which houses, garages or other buildings and gardens have been or are to be erected in terms of any existing or future planning consents) and to install, construct and lay Service Media and connect into Service Media as already exist or are installed within the Development and a right to use such Service Media together with the right of access to the Service Media whenever necessary for the purpose of laying, inspecting, cleaning, repairing, renewing or replacing the Service Media or any of them;

3.1.3 a servitude right of wayleave for all Service Media in favour of the relevant local or public authorities and statutory undertakers and other service providers serving the Benefited Property under, in, upon, over, along or across the Development from time to time. There are

also reserved in favour of the local or public authorities, statutory undertakers and other service providers and the like all necessary rights of access for the installation, connection, repair, maintenance, cleaning and renewal of Service Media in, through and under the Development (but not over any parts of Development on which houses, garages or other buildings and gardens have been or are to be elected in terms of existing or future planning consents) provided that such rights may be exercised by any local or public authority or statutory undertaker or other service provider without any liability on the part of the Developer,

### 3.2 Exercise of servitude rights

3.2.1 The parties exercising the rights and obligations contained in Condition 3.1 will:

3.2.1.1 give reasonable prior written notice to the relevant Owners or the Developer (except in the case of (i) the rights of access in terms of Condition 3.1.1 and (ii) an emergency, when no notice will be required);

3.2.1.2 in the case of (i) construction traffic only in the case of the rights in Condition 3.1.1 and (ii) the rights in Condition 3.1.2, exercise the rights at reasonable times and in a reasonable manner;

3.2.1.3 in the case of (i) construction traffic only in the case of the rights in Condition 3.1.1 and (ii) the rights in Condition 3.1.2, keep any disturbance and interference to a minimum; and

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

3.2.2 The Owner of the Development accepts the Servitudes in favour of the Benefited Property shall apply notwithstanding any change or Intensification of use of the Benefited Property.

### 4 Real burdens

4.1 The following conditions in this Condition 4 are imposed on the Development as real burdens in favour of the Benefited Property:-

4.1.1 The Development shall be used only as a residential development (including uses ancillary thereto) in accordance with all existing or future planning consents.

## **Burden 8**

Disposition by Stewart Milne Group Limited ("the Disponer") to Bellway Homes Limited ("the Purchaser") and their successors and assignees, registered 14 Jun 2017, of 5.25 hectares of ground lying to the north of Meikle Earnock Road edged and numbered 1 in green on the cadastral map ("the Conveyed Property"), registered under Title Number LAN229099, contains the following real burdens and servitude rights:

### Part 1

## Interpretation

□Conveyed Property□ means the subjects defined as such in the foregoing disposition;

□Retained Property□ means that part of the subjects in this Title tinted blue and yellow on the cadastral map under exception of the Conveyed Property;

"Service Media" means all pipes, cables, wire, sewers, drains, conduits and other service media in connection with the provision of water drainage, sewerage, gas, electricity, telecommunications and any other services

□SUDS□ means the SUDS pond edged and lettered A in mauve on the cadastral map and all pipes and other apparatus serving the same.

## Part 2

The following servitude rights are imposed on the Conveyed Property in favour of the Retained Property:-

1. The proprietors from time to time of the Retained Property and all subdivisions thereof shall have the right to connect into and use for pedestrian and vehicular access to and from the Retained Property the roads, lay-bys, footpaths, kerbs and footways, to be formed within the Conveyed Property.
2. The proprietors from time to time of the Retained Property shall have the right to construct and complete the said roads, lay-bys, footpaths, kerbs, footways, and verges and ancillary infrastructure in accordance with the Local Authority Consents granted therefor.
3. Servitude rights of wayleave over, through and under the areas formed or to be formed as roads and footpaths and any common areas within the Conveyed Property but not over any part of the Conveyed Property on which houses or other buildings have been or have to be erected in terms of existing planning consents and any subsequent amendments thereto so far as necessary for the purpose of laying, maintaining, repairing, renewing, restoring, inspecting, cleaning, using and connecting into the Service Media necessary for the development and servicing of the residential development to be constructed on the Retained Property.
4. Without prejudice to the rights contained in paragraph 3 above, all necessary rights of access over the Retained Property for the purposes of installation, inspection, maintenance, repair and renewal of the SUDS and a right to use and connect into the SUDS
5. A right to maintain all necessary sight lines over any part of the Conveyed Property to comply with all Roads Construction Consents issued by the local authority for the development of the Retained Property

The foregoing servitude rights shall be exercised subject to making good and damage caused to the Conveyed Property to the reasonable satisfaction of the proprietor of the Conveyed Property.

## Part 3

The following servitude rights are imposed on the Retained Property in favour of the Conveyed Property:-

1. A heritable and irredeemable right of vehicular and pedestrian access over the roads and footpaths within the Retained Property once constructed to and from the Conveyed Property.
2. Servitude rights of wayleave over, through and under the areas formed or to be formed as roads and footpaths and any common areas and areas of open space within the Retained Property but not over any part of the Retained Property on which houses or other buildings have been or have to be erected in terms of existing planning consents and any subsequent amendments thereto so far as necessary for the purpose of laying, maintaining, repairing, renewing, restoring, inspecting, cleaning, using and connecting into the Service Media necessary for the development and servicing of the residential development to be constructed on the Conveyed Property.
3. A right to maintain all necessary sight lines over any part of the Retained Property to comply with all Roads Construction Consents issued by the Local Authority for the development of the Conveyed Property.
4. The foregoing servitude rights shall be exercised subject to making good and damage caused to the Retained Property to the reasonable satisfaction of the proprietor of the Conveyed Property.

#### Part 4

The following Real Burden is imposed on the Conveyed Property for the benefit of the Retained Property:

1. Number of dwellinghouses to be constructed on the Conveyed Property shall be restricted to a maximum of 130.

#### Part 5

No application to the Lands Tribunal

1. No application will be made to the Land Tribunal for Scotland under Section 90(1)(a)(i) of the Title Conditions (Scotland) Act 2003 in respect of the servitudes set out in Part 2 hereof and the servitudes set out in Part 3 hereof for a period of 5 years after the registration of this disposition in the Land Register of Scotland of Scotland.

### **Burden 9**

Deed of Declaration of Conditions, registered 9 Mar. 2018, by (1) STEWART MILNE GROUP LIMITED ("Stewart Milne") and (2) BELLWAY HOMES LIMITED (□Bellway□), considering that Stewart Milne are the proprietors of the Stewart Milne Development and Bellway are the proprietors of the Bellway Development and considering that we Stewart Milne and Bellway are about to develop the Development and sell the Units on their respective developments and it is

desirable to set forth in writing the respective rights and responsibilities of the Owners we provide as follows:

## 1 Definitions and Interpretation

1.1 In this Deed the following words and expressions shall have the following meanings:-

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

"Advisory Committee" means any such committee formed in pursuance of Rule 15.1;

"Annual General Meeting" means a General Meeting which is the annual general meeting of the Association for the relevant year;

"Association" means the owners' association for the Development established under article 4 of the Scheme Order;

"Bellway Development" means the area of ground at Brackenhill Hamilton edged and numbered 1 in green on the cadastral map;

"Code" means the Code of Conduct for Property Factors in terms of the Property Factors (Scotland) Act 2011, as the same may be varied or replaced from time to time;

"Deed of Disapplication" means a deed granted pursuant to Section 73 of the Act;

"Deed of Variation" means a deed of variation or discharge granted pursuant to articles 7 or 8 of the Scheme Order;

"Detached House" means a detached house on the Development;

"Developer" means Bellway quoad the Bellway Development and, in addition, any other developer to whom they convey any part of the Bellway Development, and Stewart Milne quoad the Stewart Milne Development and, in addition, any other developer to whom they convey any part of the Stewart Milne Development

"Development" means the Stewart Milne Development and the Bellway Development; Together with all buildings and other erections thereon;

"Development Common Maintenance Parts" means those parts of the Development (under exception of all Units) which from time to time comprise:

- (1) amenity open space or landscaped open space or recreational areas
- (2) play areas with associated boundary features;
- (3) the Unadopted Paths;
- (4) verges of roads;

(5) fences, walls, hedges, and other boundary features which do not form part of a Unit;

(6) Service Media excluding all Service Media situated within a Unit;

(7) Service Strips;

(8) Visibility Splays;

(9) SUDS Systems or other surface water attenuation structures, filtration trenches and like items;

(10) Parking Spaces and relative accesses, excluding all Parking Spaces within any Unit; and

(11) any other parts of the Development that are conveyed to, and held by, the Owners' Association from time to time,

but excluding all Units;

"Emergency Work" means work which requires to be carried out to Scheme Property (1) to prevent damage to any part of the Scheme Property or to any other property; or (2) in the interests of health or safety, in either case in circumstances in which it is not practicable to consult the Manager before carrying out the work;

"Flatted Dwellinghouse" means any flatted dwellinghouse within the Development

"Garage" means a garage within the Development owned exclusively by an Owner;

"General Meeting" means a general meeting of the Association;

"Houses" means all Detached Houses, Semi-detached Houses, Terraced Houses and Flatted Dwellinghouses; and "House" means any one of them;

"Initial Deposit" means TWO HUNDRED POUNDS (£200) STERLING or such other sum as may be determined by the Association;

"Last Disposal Date" means the first date upon which we, the Developer, no longer own any Unit;

"Managed Gardens" means those areas comprising the front and side gardens of each Unit, so far as open to a road or footpath and not enclosed by a boundary fence, including any hedging regulated in accordance with Rule 25;

"Maintenance" includes maintenance, repairs or replacement, cleaning, painting, and other routine works, gardening and the day to day running of property; but does not include demolition, alteration or improvement unless reasonably incidental to maintenance; and "Maintain" and "Maintaining" shall be construed accordingly;

"Manager" means the organisation or person (as applicable) appointed in accordance with Clause 6.2 or Rule 7;

"Member" means a member of the Association, in accordance with Rule 2.3;

"Neighbour Consent" means (a) with regard to the Bellway Development (i) whilst Bellway owns any Unit, the prior written consent of Bellway or (ii) when Bellway no longer owns any Unit, the prior written consent of the Owners of any other Unit with which it shares a common boundary; and (b) with regard to the Stewart Milne Development whilst Stewart Milne owns any Unit, the prior written consent of Stewart Milne or (ii) when Stewart Milne no longer owns any Unit, the prior written consent of the Owners of any other Unit with which it shares a common boundary;

"Owner" means the person who has right to any Unit, whether or not that person has completed title (and if more than one person comes within that description it means such person as has most recently acquired such right); declaring that (1) where two or more persons have right pro indiviso then "Owner" for that Unit means both or all of them; and (2) Stewart Milne shall be the owner of any Unit in the Stewart Milne Development and Bellway shall be the owner of any Unit within the Bellway Development for this purpose, until such time as a third party becomes the owner of the relevant Unit;

"Parking Space" means a parking space within the Development, whether or not owned by any Owner or Owners;

"PL Insurance" means an insurance policy in relation to the Development Common Maintenance Parts and (until such time as they are adopted for maintenance by the local authority) the Prospectively Adoptable Roads and Footpaths, against property owners' liability:

(1) the insured party under which is the person with title to such parts of the Scheme Property; and

(2) for not less than FIVE MILLION POUNDS (£5,000,000) STERLING in respect of one incident;

"Prospectively Adoptable Roads and Footpaths" means the roads and associated footpaths constructed or to be constructed within the Development to provide vehicular and pedestrian access to the Units but excluding (1) any roads and footpaths which are within any Unit; and (2) the Unadopted Paths;

"Regulations" means regulations made under Rule 3.6;

"Reserve Fund" means money held on behalf of the Association to meet the cost of long term Maintenance, improvement or alteration of Scheme Property or to meet such other expenses of the Association as the Association may determine;

"Schedule" means the Schedule annexed and executed as relative to, and which forms part of, this Deed;

"Scheme" means the scheme of rules for the management of land set out in Schedule 1 to the Scheme Order, with variations applicable to the Development, all as such scheme of rules as so varied is set out in the Schedule Part 1, and with any other variations that may subsequently be made to that scheme as so varied;



"Scheme Order" means the Title Conditions (Scotland) Act 2003 (Development Management Scheme) Order 2009;

"Scheme Property" means:

(1) the Development Common Maintenance Parts; and

(2) the Prospectively Adoptable Roads and Footpaths;

"Semi-detached House" means one of two houses on the Development which are joined one to each other by a wall or gable one half width of which forms part of each such house;

"Service Charge" means the contribution to Association funds payable in accordance with Part 4 of the Scheme and includes (1) additional service charge, (2) the costs of putting and keeping in place the PL Insurance and (3) the Upkeep of the Managed Gardens;

"Service Media" means pipes, drains, sewers, gutters, wires, conduits, cables, wires, transmitters, connections, pumps, valves, manholes, flues and any other means of conveyance of or release of services or emissions, including water, gas, electricity, drainage, telecommunications and other services;

"Service Strips" means those parts of the Development which are designated by the Developer as service strips for Service Media for the leading of any water, gas, electricity, drainage, telecommunications and other services;

"Sewer Wayleave Area" means those parts of the Development (including parts of a Unit) which are designated by the Developer as sewer wayleaves for the leading of any foul or surface water sewers

"Stewart Milne Development" means the areas of ground at Brackenhill, Hamilton being the subjects tinted blue, pink and yellow on the cadastral map under exception of the subjects edged and numbered 1 in green on the cadastral map;

"SUD Systems" means a sustainable urban drainage system including all pipes, conduits, swales, water courses and ponding areas constructed in accordance with a specification which is approved by the local authority and the Scottish Environmental Protection Agency, each to the extent necessary for the purposes of such a system at the relevant time of construction;

"Terraced House" means a house on the Development forming part of a row of three or more attached houses;

"Upkeep" means with respect to the Managed Gardens the cutting of the grass and trimming of any hedge but excludes any necessary watering, feeding, weeding or other treatment of the grass;

"Unadopted Paths" means those footpaths and cycle paths, constructed or to be constructed within the Development (but not forming part of any Unit), which are not intended by the Developer to be adopted for maintenance by the local authority;

"Unit" means any House together with any plot of ground associated therewith and any other buildings or erections on such plot;

"VAT" means value added tax;

"Visibility Splays" means those parts of the Development which are adjacent to any of the Prospectively Adoptable Roads and Footpaths and which comprise a visibility splay area relative to such Prospectively Adoptable Roads and Footpaths;

and (as applicable) the plural version or the singular version of any of such defined terms shall be construed accordingly.

1.2 In this Deed, unless the context requires otherwise:

1.2.1 the Clause or Rule headings do not affect the interpretation of this Deed;

1.2.2 references to Clauses are to clauses of this Deed;

1.2.3 references to Rules are to Rules of the Scheme;

1.2.4 words importing the singular include the plural and vice versa, words importing any gender include all other genders, words importing the whole are to be treated as including reference to any part of the whole and words importing persons shall include corporations and vice versa;

1.2.5 if any party is more than one person, all obligations on the part of that party shall be construed as joint and several among such persons;

1.2.6 any rights conferred upon any Owner may be validly exercised:

1.2.6.1 in circumstances where a Unit is owned by two or more persons, then by any one or more of such persons; and

1.2.6.2 by any person duly authorised by such Owner including its tenants, invitees, agents and contractors, but subject always to any limitations or restrictions imposed upon such Owner by this Deed and provided that where such authorisation is in relation to voting, then it must be in writing in the form of a proxy;

1.2.7 any rights conferred upon the Manager may be validly exercised by any person duly authorised by the Manager including its agents and contractors, but subject always to any limitations or restrictions imposed upon the Manager by this Deed;

1.2.8 any restriction or prohibition imposed on any of the Owners shall be deemed to include an obligation on the relevant Owners to procure that any occupier of, or visitor to, that Owner's Unit complies with, and does not breach, the relevant restriction or prohibition;

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

1.2.10 reference to statute or statutory provisions is a reference to it as it is in force from time to time and includes:-

1.2.10.1 any statute, statutory provision or subordinate legislation which it amends or re-enacts; and

1.2.10.2 any subordinate legislation made from time to time under that statute or statutory provision;

1.2.11 any right of access onto or over any part of the Development for the purposes of (1) inspection (2) Maintenance or (3) construction, includes the right to take contractors, equipment and materials onto the relevant part of the Development for the purposes of carrying out the relevant inspection, Maintenance or construction; and

1.2.12 all sums payable under this Deed are expressed exclusive of any VAT properly chargeable thereon and any obligation contained in this Deed to pay any sum of money shall be deemed to include in addition an obligation to pay VAT (if any) charged or chargeable in respect of such sum, and that at the like time as payment of such sum is due by the relevant Owner.

## 2 Real Burdens and Scheme - Application, Creation, Variation and Discharge

### 2.1 Creation of real burdens and manager burden

2.1.1 Clause 4 is imposed on the Development as a community burden in which the community is the Development, and is enforceable by the Owners and any other proprietors of any part of the Development.

2.1.2 Clause 6 is a manager burden.

### 2.2 Date of creation and application

The provisions of this Deed (including the Scheme as applied to the Development by this Deed) take effect, in respect of the whole of the Development on the date on which this Deed is registered in the Land Register of Scotland.

### 2.3 Disapplication of Section 35

Section 35 of the Act does not apply to the community burdens created in this Deed.

### 2.4 Lands Tribunal applications

No application shall be made, in respect of any of the real burdens (including community burdens and manager burdens) or servitudes set out in this Deed, to the Lands Tribunal for Scotland under S90(1)(a)(i) or S91 (1) of the Act at any time before the date occurring 5 years after the date of registration of this Deed in the Land Register of Scotland.

## 3 Application of the Development Management Scheme

3.1 The Scheme will apply to the Development.

3.2 The Association to which the Scheme applies will be known as "The Brackenhill Park Owners' Association".

3.3 The first Manager will be the person appointed in terms of Clause 6.2 and Rule 7.1.

#### 4 Conveyance of Scheme Property

4.1 Any Developer is entitled, at its absolute discretion, at any time, to transfer title to the whole or any part of the Scheme Property to the Association.

4.2 Each conveyance to the Association of the whole or any part of the Scheme Property (under such exclusion) (in this Deed called a "Conveyance") in implement of the entitlement or obligation of the Developer in terms of Clause Error! Reference source not found., shall:

4.2.1 be for no consideration;

4.2.2 include a plan of the property being conveyed which is acceptable for land registration purposes; and

4.2.3 be accompanied by a remittance from the Developer to meet:

4.2.3.1 the registration dues of the Conveyance in the Land Register of Scotland; and

4.2.3.2 the sum of £500 towards the fees of the solicitor for the Association who will submit the application or applications referred to in Clause 4.3.2.

4.3 The Owners shall be bound to procure that the Association:

4.3.1 accepts any and each Conveyance;

4.3.2 submits, or procures the submission of, an application to register each Conveyance in the Land Register of Scotland within fourteen days of receipt of the relevant Conveyance by the Association;

4.3.3 does not withdraw, or permit the withdrawal of, any such application; and

4.3.4 uses all reasonable endeavours to procure that the Association is registered in the Land Register of Scotland as the proprietor of the property conveyed by each Conveyance.

4.3.5 within 28 days of any request by any Developer grants in favour of any utility provider as such provider and/or as proprietor of a relevant benefited property a Deed of Servitude in respect of any Service Media located within any Scheme Property vest in the Association.

#### 5 Servitudes

##### 5.1 Continuing Community Servitudes

5.1.1 For the purposes of this Clause 5.1

5.1.1.1 the burdened property is the Development; and

5.1.1.2 the benefited properties are each Unit.

5.1.2 The following servitudes are imposed on the Development in favour of each Unit, which imposition includes the grant of such servitudes in favour of the Owners of each Unit:

5.1.2.1 a right of access for pedestrian, and (relative to roads) for vehicular (including construction), traffic over:

5.1.2.1.1 the Prospectively Adoptable Roads and Footpaths; and

5.1.2.1.2 any other part of the Development Common Maintenance Parts that is, from time to time, laid out as roads or footpaths;

5.1.2.2 a right of access over, and a right to erect or attach scaffolding on or to, any Unit for the purpose of Maintaining any Unit, but this right of access does not extend to the inside of any House unless there is no other reasonably practicable method of carrying out the relevant Maintenance;

5.1.2.3 a right to retain in place any Service Media situated under or over the Development which serves any Unit; and

5.1.2.4 a right of access over any part of the Development on which no building has been erected for the purposes of maintaining any Service Media, situated under or over the Development, which serves any Unit.

5.1.2.5 a right of access to and over any Unit for the purposes of Upkeep of the Managed Gardens.

5.2 Development Servitudes burdening the Development

5.2.1 For the purposes of this Clause 5.2:

5.2.1.1 the burdened property is the Development; and

5.2.1.2 the benefited properties are each Unit;

5.2.2 The following servitudes are imposed on the Development in favour of each Unit, which imposition includes the grant of such servitudes in favour of the Owners of each Unit:

5.2.2.1 a right:

5.2.2.1.1 to construct the Prospectively Adoptable Roads and Footpaths; and

5.2.2.1.2 to the extent reasonably necessary to facilitate such construction, to take access onto and over any unbuilt upon parts of the Development;

5.2.2.2 a right to lead through and install and retain in place any Service Media over or under any unbuilt upon parts of the Development;

5.2.2.3 a right to connect to any Service Media situated under or over the Development and to retain such connection in place; and

5.2.2.4 a right of access over any unbuilt upon parts of the Development for the purposes of Maintaining any Service Media situated under or over the Development.

5.2.3 The rights conferred by Clause 5.2.2:

5.2.3.1 may be exercised in relation to any current or future development of the benefited property under this Clause 5.2; but

5.2.3.2

are extinguished in relation to any part of the benefited property under this Clause 5.2 when that part ceases to be owned by the Developer EXCEPT for the rights to retain in place:

5.2.3.2.1 any Service Media already laid and installed in terms of Clause 5.2.2.2; and

5.2.3.2.2 any connections already made in terms of Clause 5.2.2.3,

which such rights to retain in place shall not be so extinguished.

5.3 Development servitudes benefiting the Development

5.3.1 For the purposes of this Clause 5.3:

5.3.1.1 each Unit is a burdened property; and

5.3.1.2 the Development is the benefited Property.

5.3.2 The following servitudes are imposed on each Unit in favour of the Development, which imposition includes the grant of such servitudes in favour of the proprietors of any part of the Development:

5.3.2.1 a right of access over any Unit, but this right shall not include any right of access inside any House;

5.3.2.2 a right of access to and over any Unit for purposes of Upkeep of the Managed Gardens.

5.3.2.3 a right to erect scaffolding on, or to attach scaffolding to any Unit or House; and

5.3.2.4 a right to intrude into the airspace above any Unit, including to have:

5.3.2.4.1 the jib (but not the counterweight) of any crane; or

5.3.2.4.2 the arm and basket of any cherry picker vehicle or equipment,

travel through (including remaining static at periods within) such airspace,

in each case for the purpose of the erection of a building or other structure on any other part of the Development.

5.3.3 The rights conferred by Clause 5.3.2 (save those conferred by Clause 5.3.2.2) are extinguished in respect of any part of the Development (as the benefited property) when that part ceases to be owned by the Developer.

#### 5.4 Servitude conditions

The persons exercising any of the rights set out in Clauses 5.1, 5.2 and 5.3 must:

5.4.1 except:

5.4.1.1 when exercising the rights under Clauses 5.1.2.1,

5.1.2.3 and 5.1.2.5; or

5.4.1.2 in an emergency,

give reasonable prior written notice to the relevant Owner(s) of the relevant burdened property;

5.4.2 exercise the rights at reasonable times and in a reasonable manner;

5.4.3 keep to the minimum reasonably practicable, any disturbance and interference caused by such exercise; and

5.4.4 make good, as soon as reasonably practicable, any physical damage caused to any part of the Development by such exercise.

#### 5.5 Servitudes - Further Grant

Any Owner within 28 days of such request by the Developer shall grant in favour of any third party as utility provider or as proprietor of a relevant benefited property a Deed of Servitude in respect of any Service Media located within the Owner's Unit.

#### 6 Manager Burden

6.1 The Development is subject to the manager burden set out in Clause 6.2 in favour of the Developer.

6.2 The Developer, or anyone appointed by the Developer for the purpose, may act as the Manager for the Development until the earlier to occur of:

6.2.1 the date occurring five years after the date on which this Deed is registered in the Land Register of Scotland; and

6.2.2 the Last Disposal Date.

6.3 Any Manager appointed under the power set out in Clause 6.2:

6.3.1 will be an agent of the Association;

6.3.2 must perform the duties imposed on the Manager by the Scheme; and

6.3.3 will have the powers of the Manager set out in the Scheme.

## SCHEDULE

### PART 1

#### SCHEME

##### PART 1 - INTERPRETATION

##### RULE 1 - INTERPRETATION

###### 1 Definitions

In this Scheme, the definitions in Clause 1.1 apply.

##### PART 2 - THE OWNERS' ASSOCIATION

###### 2 RULE 2 - ESTABLISHMENT, STATUS ETC.

###### 2.1 Establishment

The Association is established on the day on which this Scheme takes effect.

###### 2.2 Status

The association is a body corporate to be known as "The Brackenhill Park, Hamilton Owners' Association".

###### 2.3 Members of the Association

The Members are the persons who, for the time being, are the Owners of the Units to which this Scheme applies and has taken effect; and where two or more persons own a Unit both (or all) of them are Members.

###### 2.4 Address of association

The address of the Association is that of:

(a) the Development; and

(b) the Manager, or either of them.



### 3 RULE 3 - FUNCTION, POWERS AND ENFORCEMENT

#### 3.1 Function of Association

The function of the Association is to manage the Development for the benefit of the Members.

#### 3.2 Powers of the Association

The Association has, subject to Rule 3.3, power to do anything necessary for or in connection with the carrying out of the function mentioned in Rule 3.1 and in particular may:

- (a) own, or acquire ownership of, any part of the Development;
- (b) carry out Maintenance, improvements or alterations to, or demolition of, the Scheme Property;
- (c) enter into a contract of insurance in respect of the Development or any part of it (and for that purpose the Association is deemed to have an insurable interest);
- (d) purchase, or otherwise acquire or obtain the use of, moveable property;
- (e) require Owners of Units to contribute by way of Service Charge to Association funds;
- (f) open and maintain an account with any bank or building society;
- (g) invest any money held by the Association;
- (h) borrow money; or
- (i) engage employees or appoint agents.

#### 3.3 Prohibited activities

The Association shall not have power to:

- (a) acquire land outwith the Development;
- (b) carry on any trade whether or not for profit; or
- (c) make regulations other than in accordance with Rule 3.6.

#### 3.4 Scheme to be binding

This Scheme is binding on the Association, the Manager and the Members as are any Regulations which have taken effect; and a Rule, or any such Regulation, in the form of an obligation to refrain from doing something is binding on:

- (a) a tenant of property affected by the Rule or Regulation; or

(b) any other person having the use of such property.

3.5 Enforcement of Scheme The Association may enforce:

(a) the provisions of this Scheme and any Regulations which have taken effect; and

(b) any obligation owed by any person to the Association.

3.6 Regulations

The Association may, at a General Meeting:

(a) make regulations as to the use of recreational facilities which are part of the Scheme Property; and

(b) revoke or amend regulations made under paragraph (a),

but any such regulation, revocation or amendment takes effect only after a copy of it has been delivered or sent to each Member.

4 RULE 4 - THE MANAGER

4.1 Association to have Manager

The Association is to have a Manager who, subject to any other provision of this Scheme, is a person (whether or not a Member) appointed by the Association at a General Meeting.

4.2 Power to remove manager

The Association may at a General Meeting remove the Manager from office before the expiry of that person's term of office.

4.3 Validity of actings of Manager

Any actings of the Manager are valid notwithstanding any defect in that person's appointment.

4.4 Manager to be agent

The Manager is an agent of the Association.

4.5 Exercise of powers

Subject to this Scheme, any power conferred on the Association under or by virtue of this Scheme is exercisable by:

(a) the Manager; or

(b) the Association at a General Meeting.

#### 4.6 Duties owed to Association and Members

Any duty imposed on the Manager under or by virtue of this Scheme is owed to the Association and to the Members.

#### 4.7 Manager to comply with directions

The Manager must, in so far as it is reasonably practicable to do so, comply with any direction given by the Association at a General Meeting as respects the exercise by the Manager of:

(a) powers conferred; or

(b) duties imposed,

on the Association or on the Manager.

#### 4.8 Information about management

Any Member may require the Manager to allow that Member to inspect a copy of any document, other than any correspondence with another Member, which relates to the management of the Development; and if the document is in the Manager's possession or it is reasonably practicable for the Manager to obtain a copy of it the Manager must comply with the requirement.

#### 4.9 Notice to Manager on sale etc. of Unit

Any Member who sells or otherwise disposes of a Unit must, before the date on which the person to whom the Unit is to be sold (or otherwise transferred) will be entitled to take entry, send a notice to the Manager stating, to the extent to which the information is known by that Member:

(a) the entry date and the name and address of that person;

(b) the name and address of the solicitor or other agent acting for that person in the acquisition of the Unit; and

(c) an address at which the Member may be contacted after that date.

### 5 RULE 5-EXECUTION OF DOCUMENTS

#### 5.1 Execution of documents by Association

A document is signed by the Association if signed on behalf of the Association by:

(a) the Manager; or

(b) a person nominated for the purpose by the Association at a General Meeting,

provided that the Manager or person acts within actual or ostensible authority to bind the Association.

## 6 RULE 6-WINDING UP

### 6.1 Commencement of winding up

The Manager must commence the winding up of the Association on the day on which this Scheme ceases to apply as respects the Development.

### 6.2 Distribution of funds

The Manager must, as soon as practicable after the commencement of the winding up, use any Association funds to pay any debts of the Association; and thereafter must distribute in accordance with this Scheme any remaining funds among those who were, on the date when the winding up commenced, Owners of Units.

### 6.3 Final accounts

The Manager must:

(a) prepare the final accounts of the Association showing how the winding up was conducted and the funds were disposed of; and

(b) not later than six months after the commencement of the winding up, send a copy of those accounts to the Owner of every Unit.

### 6.4 Automatic dissolution of Association

Subject to Rule 6.5, the Association is dissolved at the end of the period of six months beginning with the commencement of the winding up.

### 6.5 Delayed dissolution

At any time before the end of the period of six months mentioned in Rule 6.4, the Members may determine that the Association is to continue for such period as they may specify; and if they so determine it is dissolved at the end of the period so specified.

## PART 3 - MANAGEMENT

## 7 RULE 7 - APPOINTMENT OF MANAGER

### 7.1 First Manager

The first Manager is Hacking and Paterson Management Services, 1 Newton

Terrace, Glasgow G3 7PL and:

7.1.1 acts as manager until the date of the next Annual General Meeting which is held after the earlier of:

7.1.1.1 the date occurring five years after the date on which the foregoing Deed of Conditions is registered in the Land Register of Scotland; and

7.1.1.2 the Last Disposal Date;

under declaration that pending such Annual General Meeting or failing appointment of an alternative Manager at such Annual General Meeting the appointment of such first Manager shall meantime continue.

7.1.2 is entitled to reasonable remuneration; and

7.1.3 is eligible for reappointment.

7.2 Appointment of Manager

The Association:

7.2.1 at the next Annual General Meeting which is held after the earlier to occur of:

7.2.1.1 the date occurring five years after the date on which the foregoing Deed of Conditions is registered in the Land Register of Scotland; and

7.2.1.2 the Last Disposal Date; or

7.2.2 if a Manager's period of office expires or a vacancy occurs, at any subsequent General Meeting,

is to appoint a person to be Manager on such terms and conditions as the

Association may decide.

7.3 Certificate of appointment

Not later than one month after the date of a General Meeting at which a person is appointed to be Manager:

7.3.1 that person; and

7.3.2 on behalf of the Association, a Member,

must sign a certificate recording the making, and the period, of the appointment.

8 RULE 8 - DUTIES OF MANAGER Duties of manager

The Manager must manage the Development for the benefit of the Members and in particular must:

- 8.1.1 from time to time carry out inspections of the Scheme Property;
- 8.1.2 arrange for the carrying out of Maintenance to Scheme Property;
- 8.1.3 arrange for the Upkeep of the Managed Gardens;
- 8.1.4 put and keep in place the PL Insurance;
- 8.1.5 fix the financial year of the Association;
- 8.1.6 keep proper financial records of the dealings and activities of the Association and prepare the accounts of the Association for each financial year;
- 8.1.7 implement any decision made by the Association at a General Meeting or by the Developer in terms of Rule 11.5;
- 8.1.8 in so far as it is reasonable to do so, enforce-
  - 8.1.8.1 any obligation owed by any person to the Association; and
  - 8.1.8.2 the provisions of this Scheme and of any Regulations which have taken effect;
- 8.1.9 if there are Regulations, keep a copy of them (taking account of revocations and amendments);
- 8.1.10 keep a record of the name and address of each Member;
- 8.1.11 comply with the Code; and
- 8.1.12 accept (as agent of the Association), and procure the submission for registration in the Land Register on behalf of the Association of, any dispositions of Scheme Property as referred to in Clause 4.

## 9 RULE 9-CALLING OF GENERAL MEETINGS

### 9.1 First Annual General Meeting

The first Annual General Meeting must be called by the Manager and held not later than twelve months after the day on which, in accordance with Rule 2.1, the Association is established.

### 9.2 Annual General Meetings

The Manager must call an Annual General Meeting each year; and a meeting so called must be held no more than fifteen months after the date on which the previous Annual General Meeting was held.

### 9.3 Other General Meetings

The Manager may call a General Meeting at any time and must call a General Meeting if:

9.3.1 a revised draft budget requires to be considered;

9.3.2 required to call that meeting by Members holding not less than twenty five per cent (25%) of the total number of votes allocated; or

9.3.3 so required by a majority of the Members of the Advisory Committee.

#### 9.4 Calling of meeting

Not later than fourteen days before the date fixed for a General Meeting, the Manager must call that meeting by sending to each Member:

9.4.1 a notice stating:

9.4.1.1 the date and time fixed for that meeting and the place where it is to be held; and

9.4.1.2 the business to be transacted at that meeting; and

9.4.2 if that meeting is an Annual General Meeting, copies of the draft budget and (except in the case of the first Annual General Meeting) the accounts of the Association for the last financial year.

#### 9.5 Validity of proceedings

Any inadvertent failure to comply with Rule 9.4 as respects any Member does not affect the validity of proceedings at a General Meeting.

#### 9.6 Member's right to call meeting in certain circumstances

Any Member may call a General Meeting if:

9.6.1 the Manager fails to call a General Meeting:

9.6.1.1 in a case where Rule 9.3.2 or 9.3.3 applies, not later than fourteen days after being required to do so as mentioned in those Rules; or

9.6.1.2 in any other case, in accordance with this Scheme; or

9.6.2 the Association does not have a Manager.

#### 9.7 Procedure where Member calls meeting

Where, under Rule 9.6, a General Meeting is called by a Member:

9.7.1 any Rule imposing a procedural or other duty on the Manager in relation to General Meetings (other than the duty imposed by Rule 9.4.2) applies as if it imposed the duty on the Member; and

9.7.2 if there is a Manager, the Member must send that person a notice stating the date and time fixed for the General Meeting, the business to be transacted at it and the place where it is to be held.

## 10 RULE 10-GENERAL MEETINGS: QUORUM

### 10.1 Number required for quorum for a General Meeting

A quorum for a General Meeting is the Owners (or Owners' representatives) of at least forty per cent (40%) of all of the Units.

### 10.2 Quorum necessary for a General Meeting to begin

A General Meeting is not to begin unless there is a quorum; and if there is still no quorum twenty minutes after the time fixed for a General Meeting then:

10.2.1 the General Meeting is to be postponed until such date, being not less than fourteen nor more than twenty eight days later, as may be specified by the Manager (or, if the Manager is not present or if there is no Manager, by a majority of the Members present or represented); and

10.2.2 the Manager (or any Member) must send to each Member a notice stating the date and time fixed for the postponed General Meeting and the place where it is to be held.

### 10.3 No quorum at postponed General Meeting

A General Meeting may be postponed only once; and if at a postponed General Meeting the provisions in Rule 10.2 as respects a quorum are not satisfied, then the Members who are present or represented are to be deemed a quorum.

### 10.4 Quorum need not be maintained at a General Meeting

If a General Meeting has begun, it may continue even if the number of Members present or represented ceases to be a quorum.

## 11 RULE 11 - GENERAL MEETINGS: VOTING

### 11.1 Allocation and exercise of votes

#### 11.1.1 For the purpose of voting on any proposal at a General Meeting:

11.1.1.1 one vote is allocated to each Unit; and

11.1.1.2 any right to vote is exercisable by the Owner of each relevant Unit or by someone (not being the Manager) nominated in writing, by the Owner of that Unit, to vote.

11.1.2 At a General Meeting, the Developer has one vote for each Unit for which there is planning permission which is owned by the Developer (regardless of whether or not any of such Units have been constructed).



## 11.2 Exercise of vote where two or more persons own unit

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

## 11.3 Decision by majority

Except as set out in Rule 11.5 or where this Scheme otherwise provides, a decision is made by the Association at a General Meeting by majority vote of all the votes cast.

## 11.4 Method of voting

Voting on any proposal at a General Meeting is by show of hands; but the convener of the relevant General Meeting may determine that voting on a particular proposal is to be by ballot.

## 11.5 Final decision by Developer

11.5.1 For so long as the Developer owns any Unit for which there is planning permission (regardless of whether or not any such owned Unit has been constructed), the Developer shall have the final decision on:

11.5.1.1 any proposal at a General Meeting; and

11.5.1.2 on any other matter affecting the Development.

11.5.2 Such final decision by the Developer shall:

11.5.2.3 be binding on all Members and Owners; and

11.5.2.4 over-ride any decision made by the Members or Owners or the Manager in respect of the same matter.

## 12 RULE 12 - GENERAL MEETINGS: FURTHER PROVISIONS

### 12.1 Election of convener

The Members present or represented at a General Meeting are to elect one of their number or the Manager to be convener of that General Meeting; and on being so elected the convener is to take charge of the organisation of the business of that General Meeting.

### 12.2 Additional business

Any Member present or represented at either a General Meeting may nominate additional business to be transacted at that General Meeting.

### 12.3 Manager to attend and keep record of business transacted at General Meeting

Except where unable to do so because of illness or for some other good reason, the Manager must attend each General Meeting and:

12.3.1 keep a record of the business transacted; and

12.3.2 not later than twenty one days after the date of that General Meeting, send a copy of the record of business to each Member,

and where the Manager does not attend the convener is to nominate a person present to carry out the Manager's duties under Rules 12.3.1 and 12.3.2 in respect of that General Meeting.

### 13 RULE 13 - SPECIAL MAJORITY DECISIONS

#### 13.1 Special majority required

The Association may:

13.1.1 make a payment out of any Reserve Fund which it has formed; or

13.1.2 use any money held on behalf of the Association to carry out improvements or alterations to, or demolition of, Scheme Property (not being improvements, alterations or demolition reasonably incidental to Maintenance),

but only after the Association has, at a General Meeting, by majority vote of all the votes allocated, determined to do so.

#### 13.2 Consent of owner to be given where not common property

Where the relevant part of the Scheme Property in respect of which a determination under Rule 13.1.2 has been made, or is to be made, is owned by the Owner of a single Unit, such determination may be implemented only if the Owner of the relevant part of the Scheme Property consents in writing to the improvements, alterations or demolition in question.

### 14 RULE 14-EMERGENCY WORK

#### 14.1 Power to instruct etc.

Any Emergency Work that needs to be carried out is to be instructed by the Manager except where due to:

14.1.1 the nature of the emergency; or

14.1.2 the time of day when the requirement for Emergency Work to be carried out occurs,

it is not practicable or possible for a Member to contact the Manager, in which case the Emergency Work may be instructed by a Member.

#### 14.2 Reimbursement of Member

The Association must reimburse any Member who pays for Emergency Work.

## 15 RULE 15 - ADVISORY COMMITTEE

### 15.1 Power to elect Advisory Committee

The Association may at a General Meeting elect such number of the Members as it may specify to form an Advisory Committee whose function is to provide the Manager with advice relating to the Manager's:

15.1.1 exercise of powers; and

15.1.2 fulfilment of duties,

under or by virtue of this Scheme.

### 15.2 Manager to consult Advisory Committee

Where an Advisory Committee is formed, the Manager must, from time to time, seek advice from the Advisory Committee.

## 16 RULE 16- VARIATION

### 16.1 Deeds of variation under article 7

The Manager may, on behalf of the Association and after consulting the Advisory Committee (if any), grant a deed of variation under article 7 of the Scheme Order, and at the first General Meeting after the granting of such deed of variation the Manager must then report that it has been so granted.

### 16.2 Deeds of variation under article 8 and deeds of disapplication

The Manager may, on behalf of the Association, grant a deed of variation under article 8 of the Scheme Order or a deed of disapplication but only after the Association has, at a General Meeting, by majority of all the votes allocated, determined to do so.

## 17 RULE 17-WINDING UP

### 17.1 Distribution of funds on winding up

Where funds are distributed under Rule 6.2 the basis of distribution is that the Owner of each Unit receives one share in relation to the, or each, Unit owned by that Owner.

## PART 4 - FINANCIAL MATTERS 18 RULE 18-ANNUAL BUDGET

### 18.1 Duty of manager to prepare annual budget

Before each Annual General Meeting the Manager must prepare, and submit for consideration at that Annual General Meeting, a draft budget for the new financial year.

## 18.2 Content of draft budget

A draft budget is to set out:

18.2.1 the total Service Charge and the quarterly dates on which the Service Charge will be due for payment to the Manager;

18.2.2 a breakdown of the amount of Service Charge to show where appropriate the amounts attributable to the various elements of Scheme Property and the Managed Gardens:

18.2.3 an estimate of any other funds which the Association is likely to receive and the source of those funds;

18.2.4 an estimate of the expenditure of the Association other than the Service Charge; and

18.2.5 the amount (if any) to be deposited in a Reserve Fund.

## 18.3 Consideration of draft budget by Association

The Association may at a General Meeting:

18.3.1 approve the draft budget subject to such variations as it may specify; or

18.3.2 reject the budget and direct the Manager to prepare a revised draft budget for consideration by the Association at a General Meeting to be called by the Manager and to take place not later than two months after the date of the General Meeting at which the budget is rejected.

## 18.4 Rejected budget - payment of Service Charge

If a budget is rejected, the Service Charge exigible under the budget last approved is, until a new budget is approved, to continue to be exigible and is to be due for payment on the anniversary (or anniversaries) of the date (or dates) on which such Service Charge was originally due for payment.

## 18.5 Revised draft budget

At a General Meeting at which a revised draft budget is considered, the Association may approve or reject the budget as mentioned in Rules 18.3.1 and 18.3.2.

## 19 RULE 19 - SERVICE CHARGE

### 19.1 Amount of Service Charge

Except where Rule 19.2 applies, the Owner of each Unit shall be liable for an equal share of the amount of any Service Charge imposed under this Scheme which is attributable to the Scheme Property and the Upkeep of the Service Strips and each Owner of a Unit which includes an area forming part of the Managed Gardens shall also be liable for an equal share of

the amount of any Service Charge imposed under this Scheme which is attributable to Upkeep of the Managed Gardens.

## 19.2 Service charge exemptions

19.2.1 The Manager shall charge no remuneration in respect of any unoccupied Units owned by the Developer.

19.2.2 The Association may at a General Meeting decide as respects a particular Owner and in relation to a particular payment that no share of the relevant part of the Service Charge (or a Service Charge of a reduced amount) is payable.

## 19.3 Initial Deposit

19.3.1 On taking title to a Unit, the Owner of that Unit must pay the Initial Deposit to the Manager.

19.3.2 Subject to Rule 19.3.3, all Initial Deposits paid to the Manager must be held in accordance with the provisions of the Code or (if the Code ceases to exist) in accordance with Rule 21.

19.3.3 If, at any time, any Owner fails to pay to the Manager any sum due by that Owner in terms of this Scheme, then, without prejudice to any other rights of the Manager to recover the relevant sum due:

19.3.3.1 the Manager is entitled to use the whole or part of the Initial Deposit paid by the relevant Owner to meet the whole or part of such outstanding debt; and

19.3.3.2 the relevant Owner must pay to the Manager, on demand, such amount as is then required to replace, in the Association funds, the used whole or part of that Owner's Initial Deposit.

19.3.4 On ceasing to be an Owner of a Unit, a person is entitled to repayment of their Initial Deposit in relation to that Unit:

19.3.4.3 without interest; and

19.3.4.4 under deduction of any sums due by that person in terms of this Scheme,

but only after the Initial Deposit for that Unit has been paid by the new Owner of that Unit.

## 19.4 Manager to collect Service Charge

When the draft budget has been approved in accordance with this Scheme, the Manager:

19.4.1 must send to the Owner of each Unit a notice requiring payment, on the date (or dates) specified in the budget, of the amount of the Service Charge so specified; and

19.4.2 may send to the Owner of each Unit at any time a notice:

19.4.2.1 requiring payment, on the date (or dates) stated in the notice, of an additional amount of Service Charge determined under Rule 20.1; and

19.4.2.2 explaining why the additional amount is payable,

and the Owner of each Unit is liable for that amount and any such additional amount accordingly.

#### 19.5 Redistribution of share of costs

Where an Owner is liable for a Service Charge under Rule 19.1, but that Service Charge cannot be recovered (for example because the estate of that Owner has been sequestrated, or that Owner cannot, by reasonable inquiry, be identified or found or that Owner refuses or delays making payment) then that Service Charge:

19.5.1 is to be shared equally among the Owners of all of the other Units; or

19.5.2 if the other Owners so decide, is to be met out of any Reserve Fund,

but that Owner remains liable for the Service Charge.

#### 19.6 Interest payable on overdue Service Charge

Where any Service Charge (or part of it) remains outstanding not less than twenty eight days after it became due for payment, the Manager may send a notice to the Owner concerned requiring that person to pay interest on the sum outstanding at such reasonable rate and from such date as the Manager may specify in the notice.

### 20 RULE 20 - ADDITIONAL SERVICE CHARGE

#### 20.1 Additional Service Charge

The Manager may from time to time determine that an additional Service Charge, limited as is mentioned in Rule 20.2, is payable by the Members to enable the Association to meet any expenses that are due (or soon to become due) and which could not be met otherwise than out of the Reserve Fund.

#### 20.2 Limit on amount of additional Service Charge

In any financial year the total amount of any additional Service Charge determined under Rule 20.1 is not to exceed twenty five per cent (25%) of the total Service Charge for that year as set out in the budget approved by the Association; but in calculating that percentage no account is to be taken of any additional Service Charge payable in respect of the cost of Emergency Work.

#### 20.3 Supplementary budget

If in any financial year the Manager considers that any additional Service Charge exceeding the percentage mentioned in Rule 20.2 should be payable, the Manager must prepare and submit to the Association at a General Meeting a draft supplementary budget setting out the amount of

the additional Service Charge and the date (or dates) on which the additional Service Charge will be due for payment; and Rules 18.3, 18.4 and 19.4.1 apply as respects that draft supplementary budget as they apply as respects a draft budget and revised draft budget.

## 21 RULE 21-FUNDS

### 21.1 Association funds

Any Association funds must be:

Held in the name of the Manager as agents for the Association;

### 21.2 Special treatment of certain funds

The Manager must ensure that any Association funds which are likely to be held for some time are:

21.2.1 deposited in a non interest bearing account in the name of the Manager as agents for the Association; or

21.2.2 invested in such other way as the Association may at a General Meeting decide.

### 21.3 Reserve Fund

The Manager must ensure that any Association funds forming a Reserve Fund are kept separately from other Association funds.

## 22 RULE 22-SENDING

### 22.1 Sending

Where a Rule requires that a thing be sent:

22.1.1 to a person, it shall suffice, for the purposes of that Rule, that the thing be sent to an agent of the person;

22.1.2 to a Member and that Member cannot by reasonable inquiry be identified or found, it shall suffice, for the purposes of that Rule, that the thing be sent to the Member's Unit addressed to "The Owner" (or using some other such expression, as for example "The Proprietor").

### 22.2 Method of sending

Any reference to a thing being sent shall be construed as a reference to its being:

22.2.1 posted;

22.2.2 delivered; or

22.2.3 transmitted by electronic means.

22.3 Date of sending

A thing posted shall be taken to be sent on the day of posting; and a thing transmitted by electronic means, to be sent on the day of transmission.

## PART 5 - AMENITY RULES

### 23 RULE 23 - RESTRICTIONS ON BUILDING

23.1 No building (whether permanent, temporary, or portable) may be erected on a Unit other than:

23.1.1 a House; or

23.1.2 buildings that are reasonably ancillary to a House including a Garage, greenhouse, garden shed or conservatory.

23.2 No building (other than an ancillary building) on a Unit can be enlarged, externally altered or reconstructed or rebuilt without Neighbour Consent.

23.3 An ancillary building (including any Garage) or a Parking Space cannot be owned or let separately from the House with which it is associated.

### 24 RULE 24 - OCCUPATION, USE AND OTHER RESTRICTIONS FOR HOUSES

24.1 Each House must be used as a private dwelling only and no House (or any other part of the Unit on which that House is erected) may be used, even in an ancillary capacity, for any shop, trade, business or profession EXCEPT that these restrictions shall not apply to:

24.1.1 the use of any Unit by the Developer for the marketing and sale of the Development; or

24.1.2 the use of one room in a House, by the Owner of that House, for working from home provided that such work:

24.1.2.1 does not involve:

24.1.2.1.1 any form of manufacturing; or

24.1.2.1.2 visits to such House, by customers

or other persons, related to the work being carried out in the House; and

24.1.2.2 is not noisy or otherwise the cause of a nuisance or

disturbance of any kind to any other Owners or occupiers of any part of the Development.



24.2 A House must not be subdivided or occupied by more than a reasonable number of persons at a time.

24.3 No board, card, plate or advertising notice of any kind may be placed on a House Unit EXCEPT that this restriction shall not apply:

24.3.1 to any advertising board, notices or signage erected by the Developer for the marketing and sale of the Development; or

24.3.2 to a board or notice in relation to the sale of a House placed on a House;

24.3.3 to a maximum of two small plates on a House showing the name of the owner or of the House or its number.

24.4 No caravan, boat, trailer or commercial or light goods vehicle with a capacity exceeding 12 m<sup>3</sup> may be parked on any Unit EXCEPT that caravans, boats and trailers may be parked:

24.4.1 in a Garage; or

24.4.2 (provided that this does not affect the amenity of any neighbour) behind the build line of a House.

24.5 Subject to the exception in Rule 24.4, any Garage or driveway within any Unit may only be used for the parking of private cars, motor cycles or pedal cycles.

24.6 Each Owner must not:-

24.6.1 keep any poultry, ducks, pigeons, bees or other livestock;

24.6.2 keep any other animal which is a nuisance to adjoining Owners; or

24.6.3 breed any animals in or on his House or Unit.

24.7 No change is to be made to the colour of the external paintwork of any House.

24.8 No satellite dish may be affixed to the front elevation of any Unit

24.9 In relation to refuse or rubbish:

24.9.1 rubbish bins or bags or any other form of refuse receptacle or any other articles of any nature must not be left or deposited generally within the Development;

24.9.2 all rubbish or refuse must be:

24.9.2.1 stored appropriately; or

24.9.2.2 removed from the Development to another appropriate

disposal location; and

24.9.3 each Owner is responsible for ensuring that clear access is available by the designated route at all times to permit refuse receptacles to be moved and replaced as may be required for uplift by the Local Authority or other responsible party.

24.10 Nothing may be done on any Unit which constitutes a nuisance or which occasions disturbance to any other Owners.

## 25 RULE 25 - THE MANAGED GARDENS and THE SERVICE STRIPS

The Upkeep of the Managed Gardens and the Service Strips shall be undertaken by the Manager.

26 RULE 26 - USE OF GARDEN GROUND Except insofar as occupied by:-

26.1 buildings;

26.2 driveways including any mutual access or Parking Spaces; or

26.3 paths or paved areas; or

each Unit is to be laid out and used as ornamental or garden ground (including drying greens). All grassed areas within the Managed Gardens will be maintained as such in all time coming.

## 27 RULE 27 - USE OF DEVELOPMENT COMMON MAINTENANCE PARTS AND

### PROSPECTIVELY ADOPTABLE ROADS AND FOOTPATHS

27.1 The Development Common Maintenance Parts and the Prospectively Adoptable Roads and Footpaths must remain open and unbuilt upon in all time coming, save for any cycle racks or stores erected by the Developer.

27.2 No motor cars, caravans, motor cycles or other vehicles are to be parked or left on the Development Common Maintenance Parts except as permitted by Rule 27.3.

27.3 The following provisions apply to each Parking Space that is part of the Development Common Maintenance Parts:

27.3.1 Subject to Rules 27.3.2 and 27.3.2, each such Parking Space may be used for the parking of a motor cycle or a motor car or a small van (meaning a van with a capacity not exceeding 12 m<sup>3</sup> and for no other purpose;

27.3.2 No vehicle is to remain continuously parked in the same such Parking Space for a period longer than 24 Hours; and

27.3.3 Any vehicle parked on any such Parking Space must be roadworthy and compliant with any applicable law, including those relating to road tax and MOT testing.

27.4 No pedal cycles, prams, scooters or other like items may be stored or left on the Development Common Maintenance Parts or the Prospectively Adoptable Roads and Footpaths except (as regards pedal cycles) in any cycle racks or stores specifically provided for that purpose.

27.5 As regards skips or building materials:

27.5.1 such must not be placed or stored on any part of the Development Common Maintenance Parts; and

27.5.2 any which are placed or stored on any other part of the Development must:

27.5.2.1 not obstruct any of the Prospectively Adoptable Roads and Footpaths or any roads or footways which are in common use; and

27.5.2.2 be removed within 1 month of being so placed or stored,

EXCEPT that this Rule 27.5 shall not apply to any such placing or storage by the Developer relative to construction by the Developer on any part of the Development.

27.6 No satellite dishes, television aerials or other forms of receiver may be attached, affixed, suspended or otherwise connected to the Development Common Maintenance Parts or the Prospectively Adoptable Roads and Footpaths.

27.7 The Prospectively Adoptable Roads and Footpaths and all other roads, paths and footways within the Development Common Maintenance Parts must be kept free from obstruction.

27.8 Nothing may be done on the Development Common Maintenance Parts or the Prospectively Adoptable Roads and Footpaths which constitutes a nuisance or occasions disturbance to any Owners.

27.9 Without prejudice to Rule 27.8, and except as aftermentioned, no part of the Development Common Maintenance Parts may be used for:

27.9.1 drying clothes;

27.9.2 barbeques; or

27.9.3 playing ball games,

except that any of these things may be done on any areas that may be designated for any of such purposes from time to time either by the Developer or as decided by the Association at a General Meeting.

27.10 Existing trees and shrubs growing on the Development Common Maintenance Parts must not be pruned, cut down or damaged unless:

27.10.1 by order of the Local Authority; or

27.10.2 within the framework of a maintenance plan:

27.10.2.1 approved and agreed between the Manager or the Association on the one part and the Local Authority on the other part; or

27.10.2.2 being carried out on the instructions of the Manager in accordance with good horticultural practice.

## 28 RULE 28-MAINTENANCE OF UNITS

28.1 Each Owner of a Unit must:-

28.1.1 Maintain his Unit, including the House and any other buildings on his Unit;

28.1.2 control vermin on his Unit;

28.1.3 immediately treat any dry rot or other form of rot or infestation which is detected in the House on his Unit;

28.1.4 repair any damage to water or other service pipes or wires in his Unit which are outside the House on his Unit, immediately after the same is detected; and

28.1.5 keep garden ground within his Unit neat and tidy and free from weeds.

28.2 If an Owner fails to comply with his obligations under Rules 28.1:

28.2.1 the relevant works or actions which the Owner has failed to carry out or take may be carried out or taken by the Manager with a right of reimbursement for expenses against the Owner; and

28.2.2 the defaulting Owner will be liable for:

28.2.2.1 any damage caused to another Unit or any other part of the Development; or

28.2.2.2 loss suffered by any other Owner,

in either case as a direct or indirect result of such failure.

## 29 RULE 29 - MAINTENANCE OF MUTUAL WALLS (SEMI-DETACHED AND TERRACED HOUSES)

The wall between any Semi-detached Houses or between any Terraced Houses, one half width of which is owned by the Owner of each of such Houses, must be Maintained by the Owners of the adjoining Houses at their joint expense.

## 30RULE 30 - MAINTENANCE OF CERTAIN SHARED OWNERSHIP ITEMS

30.1Subject to the exclusion aftermentioned, this Rule applies to any:-

30.1.1 building;

30.1.2 driveway or path or landscaped area;

30.1.3 Parking Space;

30.1.4 Bin Store

30.1.5 Cycle Store

30.1.6 Service Media; and

30.1.7 any other shared ownership items

which is or are owned, or part of which is or are owned, by the Owners of two or more Houses in pro indiviso shares but excluding, such that this Rule does not apply to, any Development Common Maintenance Parts.

30.2 The Owners of the relevant Houses must Maintain the property to which this Rule applies, the costs being shared equally between or among the Owners of the relevant Houses; and each Owner is liable accordingly.

30.3 Each Owner must keep any shared ownership driveways, paths, Parking Spaces, Service Media and any other shared items free from obstruction.

### 31 RULE 31 - VISITOR PARKING SPACES.

31.1 Any visitors parking spaces shall be for the temporary use of visiting guests of any Owner and their vehicle and shall not be used by the Owners or for the parking of Owner's vehicles.

### 32 RULE 32 - BOUNDARY WALLS, FENCES, GATES AND HEDGES

32.1 Save for those erected by the Developer, no other boundary walls, fences or gates must be erected anywhere on the Development. Any such walls or fences or hedges shall be erected on one half of each of the adjoining Units and shall thereafter be maintained by the adjoining Owners jointly at their equal expense. Where a wall, fence or hedge separates a Unit from part of the Development Common Maintenance Parts it shall be maintained and, if necessary renewed, at the Owner's sole expense

32.2 Boundary walls, fences or gates must not be used by any Owner as a support or strengthening for trellis work or other items except with Neighbour Consent.

32.3 Once erected by the Developer, walls, gates or fences must not be:

32.3.1 added to;

32.3.2 removed or repositioned;

32.3.3 increased in height such that their height exceeds 1050millimetres;or

32.3.4 replaced (if necessary, by reason of wear and tear or damage) with anything other than the same specification as the original.

except with Neighbour Consent.

32.4 Once planted by the Developer or any Owner:

32.4.1 any hedges on the Development must not be permitted by their Owners to grow in excess of 1.8 metres in height; and

32.4.2 any other plants, conifers, trees (other than those affected by a Tree Preservation Order) or other planting within a Unit must not be permitted by their Owners to grow in excess of 3.6 metres in height.

32.5 Each Owner must Maintain (including repainting every four years) the boundary walls, fences, gates and hedges owned by them (exclusively or in common) EXCEPT to any extent that relevant Maintenance is carried out, or intended to be carried out, on the instructions of the Manager, but then the relevant Owner's obligation shall be to pay his appropriate share of the part of the Service Charge which is attributable to such Maintenance, as set out in Rule 19.

32.6 No change is to be made to the colour of the external paintwork of any boundary wall or fence on any part of the Development.

### 33 RULE 33 - DOGS

33.1 No dog is permitted on the Development:

33.1.1 except within the dog-owner's own Unit, provided that the dog is not a nuisance to any Owners of other Units; or

33.1.2 unless the dog is:

33.1.2.1 kept on a lead; and

33.1.2.2 accompanied by a responsible person.

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

### 34 RULE 34 - SERVICE STRIPS

34.1 The Manager shall undertake the Upkeep of the Service Strips (whether comprising part of any Unit or part of the Managed Gardens or otherwise) in accordance with Rule 25.

34.2 The Service Strips must be kept in such a way that their location and identity are apparent, and they must be Maintained.

34.3 Nothing may be planted, allowed to grow or placed on the Service Strips other than grass seeding, turf or pathway connections to the Prospectively Adoptable Roads and Footpaths.

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

34.5 Any existing block paviers or other surfaces on the Service Strips must be left undisturbed by the Owners except where there is a requirement for essential repair work to be undertaken in which event:

34.5.1 such block paviers or other surfaces may be subject to disruption but the disruption must be for the minimum period practicable; and

34.5.2 following completion of such essential repair work, the disturbed block paviers or other surfaces are reinstated.

34.6 Nothing must be done by an Owner which would be likely to:-

34.6.1 damage any pipes, ducts, cables or other apparatus within the Service Strips;

34.6.2 make access to such apparatus more difficult or expensive; or

34.6.3 alter the surface level of the Service Strips.

### 35 RULE 35 - VISIBILITY SPLAYS

35.1 Nothing may be planted or allowed to grow on any Visibility Splays other than grass seeding or turf.

35.2 No building or other structure or obstruction may be erected on any Visibility Splays.

### 36 RULE 36 SEWER WAYLEAVE AREAS

No building or other structure (under exception of all roads, paths, parking areas, play areas, or other features formed or to be formed by the Developer), nor anything which could impede immediate access, can be erected on any Sewer Wayleave Area , each of which must be kept clear of all obstructions.

Any existing surface feature on any Sewer Wayleave Areas must be left undisturbed except where there is a requirement for essential repair work to be undertaken in which event, any disruption must be for the minimum practicable period and thereafter the relevant surface feature must be reinstated.

Nothing shall be done which would be likely to damage any pipe or other Service Media located within any Sewer Wayleave Areas, or be likely to make access to such pipe or Service Media more difficult or expensive, or which may alter the surface level of any Sewer Wayleave Area.

### PART 6 - INSURANCE AND REINSTATEMENT 37 RULE 37 - INSURANCE AND REINSTATEMENT

Each Unit:

37.1 must, at all times, be insured by its Owner with a reputable insurer, for the full cost of reinstatement, against loss by fire and other risks normally insured under a buildings insurance policy for a domestic property of the nature of the Unit; and

37.2 if the Unit (including any House or other buildings or erections forming part of the Unit) is or are damaged or destroyed, it or they must be repaired or rebuilt by its Owner, within two years of the date of occurrence of the damage or destruction:

37.2.1 using the whole sums received from the relevant insurers and with the Owner making up any shortfall; and

37.2.2 to its previous design and dimensions.

Note 1: There is no Clause 19.3.4.1 or 19.3.4.2 in the above deed.

Note 2: Clause 4.2 is as it appears in the above deed.

## **Burden 10**

Disposition by Stewart Milne Group Limited to Scottish Hydro Electric Power Distribution plc and their successors, registered 26 Mar. 2018, of the subjects edged and numbered 2 in green on the cadastral map registered under Title Number LAN235050 (hereinafter referred to as "the Conveyed Property"), contains the following real burdens and servitudes:

### **PART 1**

#### **INTERPRETATION**

Access means the land shown tinted yellow on the cadastral map and the roads, footpaths and other areas providing access to and egress from the Conveyed Property.

Benefited Property Owner means SCOTTISH HYDRO ELECTRIC POWER DISTRIBUTION PLC, incorporated under the Companies Acts in Scotland (Company Number SC213460) and having its registered office at Inveralmond House, 200 Dunkeld Road, Perth, PHI 3AQ and their successors and assignees as owners of the Benefited Property.

Benefited Property means (i) the Conveyed Property, and (ii) the Network.

Cables means all electrical plant and underground electric lines (as defined in section 64 of the Electricity Act 1989) and all appurtenant apparatus installed or to be installed along and within the Servitude Strip and the Access.

Conveyed Property Owner means the heritable proprietor of the Conveyed Property from time to time.

Network means (a) the electricity distribution network currently owned and operated by the Benefited Owner together with substations and other apparatus and (b) the areas of land which are owned by the Benefited Owner under, upon and over which said distribution network



substations and other apparatus are installed or erected all as varied or altered from time to time.

Retained Property means means the subjects registered under Title Number LAN216338 under exception of the Conveyed Property.

Retained Property Owner means the heritable proprietor of the Retained Property from time to time.

Servitude Strip means the strips of land shown hatched red on the cadastral map.

## PART 2 REAL BURDENS AFFECTING THE RETAINED PROPERTY

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

1. The Retained Property Owner shall not

(a) make any alteration to the Servitude Strip or the Access, nor plant any tree or shrub or erect any structure on or over the Servitude Strip or the Access, other than with the prior written consent and under the supervision of the Benefited Property Owner; nor

(b) do anything (other than normal agricultural operations) whereby the support of or the cover of soil over the Cables shall be altered

other than with the prior written consent and under the supervision of the Benefited Property Owner (such consent not to be unreasonably withheld or delayed where such alteration, planting or erection is not likely to cause damage to the Cables or interfere with the safe operation thereof).

2. The Retained Property Owner shall not do anything that may or may be likely to cause damage to the Cables or the Conveyed Property and shall take all reasonable precautions to prevent any damage to the Cables.

3. The Retained Property Owner shall not interfere with or obstruct either the operation of the Cables or the Conveyed Property, or the access to the Cables or the Conveyed Property.

## PART 3A SERVITUDES AFFECTING THE RETAINED PROPERTY

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

1. A right of access to and egress from the Conveyed Property with or without vehicles, plant and equipment and at all reasonable times (and at any time in cases of emergency) over the Access together with a right to temporarily park vehicles on the Access.

2. The right to drain surface water from the Conveyed Property on to the Retained Property into any existing drainage system.

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

3. For all proper purposes connected with the exercise of the rights granted in this Disposition, a right of access to and egress from the Servitude Strip with or without vehicles, plant and equipment and at all reasonable times (and at any time in cases of emergency).
4. The right to lay, relay, construct, use, inspect, maintain, repair, protect, replace, renew, supplement, connect into, remove or render unusable the Cables and to break up so much of the surface of the Retained Property as it reasonably necessary from time to time for the purpose of exercising this servitude right.
5. The right to fell, lop or cut in a proper manner all trees and shrubs standing on the Retained Property which may, if not felled, lopped or cut, obstruct or interfere with the construction, maintenance or safe operation of the substation or any other apparatus on the Conveyed Property or the Cables, under payment of compensation for the value of any tree, shrub or other vegetation so felled. No compensation shall be payable by the Conveyed Property Owner to the Retained Property Owner in respect of any tree, shrub or other vegetation which may be felled or lopped within the Servitude Strip, but any such tree, shrub or other vegetation felled or lopped by the Conveyed Property Owner within the Retained Property shall be left for the Retained Property Owner.

## PART 3B

### SERVITUDE CONDITIONS

1. The Servitudes set out in Part 3A are to be exercised using reasonable precautions to minimise damage or obstruction to or interference with the use of the Retained Property.
2. Whenever necessary following exercise of the servitudes granted in Part 3A hereof, the Benefited Property Owner shall either (at the Benefited Property Owner's option) (i) make good and restore the Retained Property to the reasonable satisfaction of the Retained Property Owner, or (ii) pay the proper and reasonable costs incurred by the Retained Property Owner in making good physical damage to the Retained Property.
3. So far as is reasonably practicable and for so long as the Cables are used for or in connection with the transmission or distribution of electricity, the Benefited Property Owner shall keep the Cables in good repair and condition, and upon abandonment of the whole or any part of the Cables the Benefited Property Owner shall render them permanently safe.
4. The Benefited Property Owner will indemnify the Retained Property Owner in respect of all liabilities incurred, all damage and loss suffered, all claims, demands, actions and proceedings arising as a consequence of a breach by them (or those for whom they are responsible) of the servitude conditions set out in this Part 3B.

No application may be made to the lands tribunal for Scotland under Section 90(1)(a)(i) of the Title Conditions (Scotland) Act 2003 in respect of the real burdens set out in Part 2 above and the servitudes set out in Part 3A above for a period of 5 years after the date of registration hereof.

## Burden 11

Deed of Servitude containing Disposition by Stewart Milne Group Limited to SP Distribution Plc and their successors and assignees (hereinafter referred to as "SP"), registered 12 Aug. 2019 contains the following servitude rights and conditions:

(one) a heritable and irredeemable servitude right to carry overhead, with the unrestricted right to use, inspect, maintain, repair, replace, remove and renew (including the right to extend and enlarge), all overhead electric lines, within the area hatched brown on the cadastral map, (which area forms part of the subjects in this Title (hereinafter referred to as "the Subjects") and is hereinafter referred to as the "Servitude Route") (which expression "overhead electric lines" means any overhead lines which are used for carrying electricity or (as required by SP in connection with their statutory and licensed duties and obligations as statutory undertakers) electronic communications for any purpose and including any support for any such lines, any apparatus connected to any such lines and any wire, cables, tube, pipe or other similar thing (including its casing or coating) which surrounds or supports, or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with any such lines) with (1) a right to install (in so far as not already installed) the overhead electric lines in through and across the Servitude Route or along such route as near as reasonably practicable to the original route such deviation from the original route to be agreed between the parties in writing; (2) the right to erect (in so far as not already erected), maintain and replace steel lattice towers/pylons/poles with guards, foundations, supports, stays, wires, cables and other structures (□the supporting structures") on the Servitude Route for the purpose of supporting the overhead electric lines; (3) a right of access over the Subjects for all necessary pedestrian and vehicular purposes related to erecting, inspecting, maintaining, repairing, replacing, renewing and removing the overhead electric lines and/or the supporting structures (4) the right to enter the Subjects and remove any buildings, other erections, workings or land formations which reduce the ground clearance of the overhead electric lines or might otherwise in the sole opinion of SP (acting in conformity with their statutory and licensed obligations as statutory undertakers) injuriously affect the overhead electric lines and/or the supporting structures or the use and operation thereof or hinder or restrict access thereto for any of the foregoing purposes which shall be constructed, placed or permitted on the Subjects within a distance laterally of 10 metres either side of the middle of the overhead electric lines; and (5) the right to enter the Subjects and lop, cut or remove any trees, shrubs or bushes as shall be grown, cultivated or permitted to grow on the Subjects within a lateral distance of 10 metres either side of the middle of the overhead electric lines or on the line of the access thereto which might in the sole opinion of SP (acting in conformity with their statutory and licensed obligations as statutory undertakers) interfere with the enjoyment by the SP of the rights hereby granted and generally restrict any of the operations of SP in relation to the use and operation of the overhead electric lines and/or the supporting structures, or the future use, operation, inspection, maintenance, repair, replacement, enlargement or removal thereof; and which rights shall be exercised subject to the following conditions:- (a) SP shall exercise the foregoing rights so as to cause the least inconvenience to us or our successors as proprietors of the Subjects and shall make good or pay reasonable compensation for any damage caused to the Subjects arising from the exercise of the foregoing rights and (b) SP shall free and relieve us and our foresaids against all actions, claims, costs and expenses which may be incurred by us or our foresaids or made against us or our foresaids by reason of the negligent act or negligent omission of SP (or

those for whom it is responsible in law) or the breach by SP (or those for whom it is responsible in law) of any of the obligations of SP hereunder; Provided that in all cases SP shall not be liable, nor pay compensation nor indemnify us or our foresaids, in respect of any damage, injury or death which may be caused directly or indirectly through the default or negligence of us or our foresaids or occupiers of the Subjects, including default or negligence in the use of the electric lines by them or any of them; We and our foresaids shall mitigate losses, costs, expenses and damages; and (c) we and our successors as proprietors of the Subjects as part of the grant of the aforesaid servitude hereby undertake not to do or cause or permit to be done on or along the overhead electric lines anything likely to cause damage or injury to the overhead electric lines and to take all reasonable precautions to prevent such damage or injury; FURTHER DECLARING that any dispute or difference as to the meaning and effect of these presents shall, failing agreement, be referred for the decision of a single Arbitrator mutually appointed or failing agreement to be appointed by the President for the time being of the Law Society of Scotland in accordance with Arbitration (Scotland) Act 2010.

## **Burden 12**

Disposition by Stewart Milne Group Limited (the "Seller") to Scottish Hydro Electric Power Distribution plc and their successors and assignees (the "Purchaser"), registered 29 Jun 2021, of the plot or area of ground, edged and numbered 134 in green on the cadastral map forming the subjects registered under Title Number LAN246179 , contains the following real burdens and servitudes;

### **PART I**

#### **INTERPRETATION**

In this Schedule:

Access means the land tinted brown and blue on the secondary layer of the cadastral map, an extract of which is included as supplementary data 1 to the title sheet and the roads, footpaths and other areas providing access to and egress from the Conveyed Property.

Cables means all electrical plant and underground electric lines (as defined in section 64 of the Electricity Act 1989) and all appurtenant apparatus installed or to be installed along and within the Servitude Strips and the Access.

Conveyed Property Owner means the heritable proprietor of the Conveyed Property from time to time.

Retained Property means the subjects registered under Title Number LAN216338 under exception of the Conveyed Property.

Retained Property Owner means the heritable proprietor of the Retained Property from time to time.

Servitude Strips means the strips of land tinted yellow and blue on the secondary layer of the cadastral map, an extract of which is included as supplementary data 1 to the title sheet, in so

far as falling within the Retained Property.

## PART 2

### REAL BURDENS AFFECTING THE RETAINED PROPERTY

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

1. The Retained Property Owner shall not

(a) make any alteration to the Servitude Strips or the Access, nor plant any tree or shrub or erect any structure on or over the Servitude Strips or the Access, other than with the prior written consent and under the supervision of the Conveyed Property Owner: nor

(b) do anything (other than normal agricultural operations) whereby the support of or the cover of soil over the Cables shall be altered

other than with the prior written consent and under the supervision of the Conveyed Property Owner (such consent not to be unreasonably withheld or delayed where such alteration, planting or erection is not likely to cause damage to the Cables or interfere with the safe operation thereof).

2. The Retained Property Owner shall not do anything that may or may be likely to cause damage to the Cables or the Conveyed Property and shall take all reasonable precautions to prevent any damage to the Cables.

3. The Retained Property Owner shall not interfere with or obstruct either the operation of the Cables or the Conveyed Property, or the access to the Cables or the Conveyed Property.

## PART 3A

### SERVITUDES AFFECTING THE RETAINED PROPERTY

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

1. A right of access to and egress from the Conveyed Property with or without vehicles, plant and equipment and at all reasonable times (and at any time in cases of emergency) over the Access together with a right to temporarily park vehicles on the Access.

2. The right to drain surface water from the Conveyed Property on to the Retained Property into any existing drainage system.

3. For all proper purposes connected with the exercise of the rights granted in this Disposition, a right of access to and egress from the Servitude Strips with or without vehicles, plant and equipment and at all reasonable times (and at any time in cases of emergency).

4. The right to lay, relay, construct, use, inspect, maintain, repair, protect, replace, renew, supplement, connect into, remove or render unusable the Cables and to break up so much of the surface of the Retained Property as it is reasonably necessary from time to time for the purpose of exercising this servitude right.
5. The right to fell, lop or cut in a proper manner all trees and shrubs standing on the Retained Property which may, if not felled, lopped or cut, obstruct or interfere with the construction, maintenance or safe operation of the substation or any other apparatus on the Conveyed Property or the Cables, under payment of compensation for the value of any tree, shrub or other vegetation so felled. No compensation shall be payable by the Conveyed Property Owner to the Retained Property Owner in respect of any tree, shrub or other vegetation which may be felled or lopped within the Servitude Strips, but any such tree, shrub or other vegetation felled or lopped by the Conveyed Property Owner within the Retained Property shall be left for the Retained Property Owner.

## PART 3B

### SERVITUDE CONDITIONS

1. The Servitudes set out in Part 3A are to be exercised using reasonable precautions to minimise damage or obstruction to or interference with the use of the Retained Property.
2. Whenever necessary following exercise of the servitudes granted in Part 3A of the Schedule, the Conveyed Property Owner shall either (at the Conveyed Property Owner's option) (i) make good and restore the Retained Property to the reasonable satisfaction of the Retained Property Owner, or (ii) pay the proper and reasonable costs incurred by the Retained Property Owner in making good physical damage to the Retained Property.
3. The Conveyed Property Owner shall obtain any necessary statutory or local authority consents or permissions or licences for the carrying out of the relevant works and comply with all applicable statutory and local authority requirements in relation to such works
4. (Other than where necessary for the inspection, maintenance, repair, renewal or replacement of the Cables or any apparatus or buildings within the Conveyed Property as aforesaid, and that for the minimum period practicable in the circumstances) no vehicles shall be parked on the Access or the Servitude Strips nor on any roadway within the Retained Property nor materials placed on any such roadway by the Conveyed Property Proprietor nor shall the Conveyed Property Owner otherwise materially obstruct any roadway within the Retained Property in the exercise of their rights
5. So far as is reasonably practicable and for so long as the Cables are used for or in connection with the transmission or distribution of electricity, the Conveyed Property Owner shall keep the Cables in good repair and condition, and upon abandonment of the whole or any part of the Cables the Conveyed Property Owner shall render them permanently safe.
6. The Conveyed Property Owner will indemnify the Retained Property Owner in respect of all liabilities incurred, all damage and loss suffered, all claims, demands, actions and proceedings arising as a consequence of a breach by them (or those for whom they are responsible) of the servitude conditions set out in this Part 3B of the Schedule.

## PART 4

## REAL BURDENS AFFECTING THE CONVEYED PROPERTY

1 The Conveyed Property Owner shall be obliged to ensure that the substation to be erected on the Conveyed Property, the equipment ancillary thereto, the Cables and the Conveyed Property shall be maintained in good repair and condition and, where appropriate, good working order and the said electricity substation shall be enclosed within a suitable enclosure as shall be considered satisfactory for current health and safety legislation at all times.

No application may be made to the Lands Tribunal for Scotland under Section 90(1)(a)(i) of the Title Conditions (Scotland) Act 2003 in respect of the real burdens set out in Part 2 of the Schedule and the servitudes set out in Part 3 A of the Schedule for a period of five years after the registration of this disposition in the Land Register of Scotland.

**Burden 13**

Deed of Conditions, registered 1 Nov 2021, by Stewart Milne Group Limited, Proprietor of the Larger Subjects hereinafter defined, provides as follows:

CONSIDERING THAT we are about to develop the Larger Subjects PROVIDE as follows:

## 1 Definitions, Interpretation and Construction

## 1.1 Definitions

In this Deed:

"Benefited Area" means that part of the Larger Subjects which is, at the relevant time, to derive benefit through the exercise of the relevant servitude right;

"Benefited Proprietor" means the party who is heritable proprietor at the relevant time of an area identified for the purposes of this Deed of Conditions as a Benefited Area;

"Burdened Area" means at the relevant time the Larger Subjects under exception of the area then identified or determined as the applicable Benefited Area,

"Burdened Proprietor" means the party or parties who are heritable proprietors at the relevant time of the areas identified for the purposes of this Deed of Conditions as the Burdened Area;

"Developer" means the proprietors (or heritable creditors in possession) from time to time of any part of the Larger Subjects;

"Larger Subjects" means those plots or areas of ground at Meikle Earnock Road, Hamilton, edged brown on the secondary layer of the cadastral map, an extract of which is included as supplementary data 2 to the title sheet;

"Service Media" means all pipes, cables, wires, sewers, drains, conduits and other service media in connection with the provision of water, drainage, sewerage, gas, electricity, telecommunications and any other services and conducting media with ancillary pipes, cables, shafts, vents, manholes, connections, conduits, inspection chambers and other apparatus (including pumping equipment, meters and connections and plant and machinery);

"SUDS Systems" means any sustainable urban drainage system, underground stormcell attenuation structures and associated apparatus, equipment and infrastructure; and

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

## 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 "Developer" 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 by this Deed of Conditions may be validly exercised by any person duly authorised by such Owner including its tenants, agents and tradesmen, but subject to any limitations or restrictions imposed upon such Owner by this Deed.

### 2 Creation/Application

#### 2.1 Date of creation and application

The conditions imposed by this Deed of Conditions will take effect, in respect of the Benefited Property on the date of registration in the Land Register of Scotland of this Deed of Conditions

#### 2.2 Lands Tribunal applications

No application may be made to the Lands Tribunal for Scotland under sections 90(1)(a)(1) 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 Servitudes

The rights in this Condition are servitudes imposed on the Larger Subjects in favour of the Benefited Property

3.1 The following servitudes are imposed on the Larger Subjects in favour of each Benefited Area.

3.1.1 a non-exclusive heritable and irredeemable servitude right of access over the Larger Subjects for pedestrian and vehicular traffic (including construction traffic) along and over the roads and footpaths (as the same may be formed from time to time) or land identified from time to time as to be appropriated for use as roads and footpaths by the Developer who is heritable proprietor (or heritable creditor in possession as appropriate) of the land in question within the Larger Subjects, together with the rights to construct and/or connect into the said roads and footpaths where necessary to provide access to the Benefited Area;

3.1.2 a non-exclusive heritable and irredeemable servitude right of access to inspect, maintain, repair and renew such roads and footpaths as are constructed over, through and across the Larger Subjects as such right is reasonably required to facilitate the development of the Benefited Area or any part or parts thereof and the full use and enjoyment thereof;

3.1.3 a non-exclusive heritable and irredeemable servitude right to lay, lead, install, construct, use, inspect, maintain, repair, and where necessary renew Service Media or SUDS Systems under and/or upon the Larger Subjects;

3.1.4 a non-exclusive heritable and irredeemable right of access to the Larger Subjects and any part or parts thereof as and when required for the purpose of laying leading, installation, construction, use, inspection, maintenance, repair and renewal of such Service Media or SUDS Systems;

3.1.5 a non-exclusive heritable and irredeemable right to connect into and to use, inspect, maintain, repair and where necessary renew such Service Media, SUDS Systems, including street lighting, and visibility splays as may exist now or in the future in, over, under or upon the Larger Subjects and any part or parts thereof;

3.1.6 a non-exclusive and irredeemable servitude right to divert and/or remove all underground or overhead electric lines and associated apparatus whether existing as at the date hereof or otherwise,

3.1.7 a non-exclusive and heritable and irredeemable servitude right to enter onto the Burdened Area or any part thereof (a) to plant trees and/or shrubs if necessary to comply with the requirements of the planning authorities (together with any necessary fencing or other protective measures to safeguard the said trees and/or shrubs) and (b) for any other necessary purposes in connection with compliance with statutory consents;

3.1.8 a servitude right of wayleave for all Service Media in favour of the relevant local or public authorities and statutory undertakers and other service providers serving the Benefited Property under, in, upon, over, along or across the Larger Subjects from time to time There are also reserved in favour of the local or public authorities, statutory undertakers and other service providers and the like all necessary rights of access for the installation, connection, repair, maintenance, cleaning and renewal of Service Media in, through and under the Larger Subjects (but not over any parts of Larger Subjects on which houses garages or other buildings and gardens have been or are to be erected in terms of existing or future planning consents) provided that such rights may be exercised by any local or public authority or statutory undertaker or other service provider without any liability on the part of the Developer; and

3.1.9 a non-exclusive heritable and irredeemable servitude right of vehicular (including use by construction vehicles) and pedestrian access to and egress from the Larger Subjects for the purposes of constructing dwellinghouses, garages buildings and/or boundary features upon the Benefited Area together with the right to erect maintain in place in part on the Larger Subjects and utilise and thereafter remove scaffolding as may be reasonably required by the Benefited Proprietor in order to construct and complete the said development on the Benefited Area.

## 3.2 Exercise of servitude rights

3.2.1 The Developers may exercise the rights and obligations contained in 3.1.1 to 3.1.8 inclusive hereof subject always to;

3.2.1.1 The route or routes of the Service Media (including the route of any diversion thereof) and the location of the SUDS Systems, roads and footpaths and visibility splays being approved in writing by the Developers affected by the exercise of such rights, acting reasonably and without delay, and which approval shall be deemed to be given if the route or routes of the Service Media (or diversion as the case may be), SUDS Systems and roads and footpaths and visibility splays are in accordance with any then current detailed planning consent;

3.2.1.2 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 to the Burdened Proprietor and the Burdened Area.

3.2.1.3 to the exercise of such rights being prohibited over

such part or parts of the Larger Subjects as have been or are intended to be sold as individual dwellinghouses together with any ancillary garden ground or other buildings or substations or gas governors; and

3.2.1.4 to the Benefited Proprietor being responsible for an

equitable share according to user of the costs of maintenance, repair and renewal of the said roads and footpaths (in so far as the same are used in common with other parts of the Larger Subjects) until the same are taken over and maintained by the Local Authority save as otherwise agreed between the Developers.

3.2.1.5 to the Benefited Proprietor making good all physical

damage caused to the Larger Subjects or any buildings thereon to the reasonable satisfaction of the Benefited Proprietor as soon as reasonably practicable.

3.2.2 The Developers may exercise the rights contained in Clause 3.1 9 subject always to:

3.2.2.1 any physical damage caused in the exercise of the

rights being made good as soon as reasonably practicable by the Benefited Proprietor to the reasonable satisfaction of the relevant Burdened Proprietor.

3.2.2.2 the Benefited Proprietor giving reasonable notice to the Burdened Proprietor of its intention to take entry to the Burdened Area (which notice shall be at least seven days, save in the case of evident emergency) and the Benefited Proprietor shall advise the Burdened Proprietor of the timescale anticipated to erect the scaffolding, for the scaffolding remaining in place and for dismantling and removing the scaffolding;

3 2 2.3 the Benefited Proprietor shall be obliged to minimise

inconvenience, nuisance and disruption to the Burdened Proprietor, and

3.2.2.4 the Benefited Proprietor shall be obliged to remove

from the relevant part of the Larger Subjects all equipment, plant and materials (including scaffolding) belonging to or brought onto the Burdened Area by the Benefited Proprietor or its employees, agents and contractors as soon as it is no longer required for the construction and completion of dwellinghouses garages and / or boundary features and shall leave the Burdened Area in as neat and orderly a condition as is reasonably practicable;

4 The routes, location and intended capacity of the Service Media and SUDS Systems shall be as set out by Taylor Wimpey UK Limited (Registered Number 01392762 and having its registered office at Gate House, Turnpike Road, High Wycombe Buckinghamshire, HP12 3NR (or in the event that another party or parties is/are developing the affected part of the Larger Subjects shall be as set out by the relevant Developer) and shall be laid under roads, footpaths, service strips and open or landscaped areas formed or to be formed within the Larger Subjects. In determining such routes, location and capacity the relevant Developers will have due and proper regard to the intended scale of development of the Larger Subjects as from time to time demonstrated by the planning consent(s) current at the relevant time and shall use skill and care in diligence in such determination as would be applied by a prudent and experienced developer in sites of the form and scale of the Larger Subjects.

5 All questions disputes, differences and others which may arise amongst the Developers or which may be raised by any of them regarding (One) their rights and interests in the Larger Subjects or any part or parts thereof; (Two) the execution of any works permitted or provided for by the exercise of any of the rights or reservations herein contained, whether common to the whole or a substantial part of the Larger Subjects or otherwise or the liability for cost thereof. (Three) the reasonableness or expediency of any action or decision of any Developer; and (Four) all other questions insofar as depending on or otherwise arising out of or in respect of these presents in any manner of way shall be referred to the decision of an arbiter experienced in property development of the type and in the area of the Larger Subjects appointed failing agreement between the Developers by the Chairman for the time being of the Scottish Branch of the Royal Institution of Chartered Surveyors and the decision of such arbiter shall be final and binding upon all concerned and the Developers shall be bound to implement and fulfil to each other the said decisions, findings and decrees of the arbiter, the arbiter shall be entitled in fulfilment of his duties to take skilled advice and order execution or performance of works and to apportion the cost thereof amongst the Developers or to vary or annul any such decision, or determination and to find all or any of them liable in expenses of the arbitration and to issue judgement accordingly

6. There is reserved to the Benefited Proprietors full power and liberty to grant or retain to require the relevant Burdened Proprietors) to grant or retain) servitude rights and wayleaves over the roads and footpaths in favour of any Utility Suppliers to supply, install, lay maintain, inspect, enlarge and connect into all Service Media or SUDS Systems to be constructed within the Larger Subjects together with all necessary rights of access to such Service Media or SUDS Systems.

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

## **Burden 14**

Disposition by Stewart Milne Group Limited ("the Disponer") to Taylor Wimpey UK Limited ("Purchaser") and their successors and assignees, registered 8 Nov 2021, of the plots or areas or ground at Meikle Earnock Road, Hamilton ("the Conveyed Property"), inter alia edged and

numbered 154 to 160 (inclusive) in green on the cadastral map forming part of the subjects registered under Title Number LAN247473, contains the following servitudes and real burdens;

## Part 1

### Interpretation

#### In this Schedule

"Conveyed Property" means the subjects defined as such in the foregoing disposition;

"Conveyed Property Proprietor" means the Purchaser and their successors in ownership of the Conveyed Property (or any part thereof),

"Retained Property" means the subjects in this Title and the subjects registered under Title number LAN229895 under exception of the Conveyed Property;

"Retained Property Proprietor" means the Disponer and their successors in ownership of the Retained Property (or any part thereof);

"Retained Road Area" means the area tinted pink on the secondary layer of the cadastral map, an extract of which is included as supplementary data 3 to the title sheet;

"Roads" means any roads, and all associated footpaths, junctions, roundabouts with relative street lighting, gutters, verges, sight lines, visibility splays, supporting and ancillary infrastructure and ancillary landscaping.

"Service Media" means all pipes, cables, wire, sewers, drains, conduits and other service media in connection with the provision of water drainage, sewerage, gas, electricity, telecommunications and any other services,

"SUDS" means the sustainable urban drainage and attenuation ponds, basins and features tinted blue on the secondary layer of the cadastral map, an extract of which is included as supplementary data 3 to the title sheet and all pipes, conduits, porous material and all other apparatus serving the same, which forms part and portion of the Retained Property;

## Part 2

The following servitude rights are imposed on the Retained Property in favour of the Conveyed Property: -

1. A heritable and irredeemable servitude right to construct, install, maintain, connect into, upgrade, repair and renew the SUDS, together with all necessary rights of access over the Retained Property for the purposes of construction, installation, inspection, maintenance repair and renewal of the SUDS and a right to use and connect into the SUDS.
2. A heritable and irredeemable servitude right of access for pedestrian and vehicular access over the Roads to be constructed within the Retained Property (including the Retained Road Area)

3. A heritable and irredeemable servitude right to install all necessary Service Media within the Retained Property (including the Retained Road Area) and thereafter use the same in connection with the Conveyed Property with rights to lay, install, inspect, repair, improve, cleanse, maintain, renew, remove and replace, enlarge or alter the Service Media which are at the time or may thereafter be required for the development of the Conveyed Property with all necessary rights of pedestrian and vehicular access at all times (including for construction traffic) over the Retained Property for the foregoing purposes. Declaring that these rights shall not be exercised over any part of the Retained Property on which houses or other buildings have been or have to be erected in terms of existing planning consents and any subsequent amendments thereto.

4 A heritable and irredeemable servitude right to construct the Roads within the Retained Road Area (and to construct any such Roads to an adoptable standard as required by the local or planning authorities, all in accordance with the relevant roads construction consent, together with a servitude right of pedestrian and vehicular access and egress at all times and for all purposes (including for construction traffic and with workmen and equipment if required) over the Retained Property for the foregoing purposes

The foregoing servitude rights shall be exercised subject always to the proprietors from time to time of the Conveyed Property causing the least possible disturbance to the Disponer and their successors from time to time as proprietors of the Retained Property and to making good any damage caused to the Retained Property to the reasonable satisfaction of the proprietor of the Retained Property.

### Part 3

The following Real Burden is imposed on the Conveyed Property for the benefit of the Retained Property

1 The Conveyed Property Proprietor and the Retained Property Proprietor shall jointly maintain in good order and repair in all time coming the SUDS (to the extent that same is not adopted by the local authority or the relevant statutory undertaker or services provider) on a user basis

### PART 4

The following Real Burden is imposed on the Retained Property for the benefit of the Conveyed Property

2 The Conveyed Property Proprietor and the Retained Property Proprietor shall jointly maintain in good order and repair in all time coming the SUDS the extent that same is not adopted by the local authority or the relevant statutory undertaker or services provider) on a user basis.

### PART 5

No application to the Lands Tribunal

No application will be made to the Land Tribunal for Scotland under Section 90(1)(a) of the Title Conditions (Scotland) Act 2003 in respect of the servitudes set out in Part 2 of the Schedule

and the burdens set out in Pans 3 and 4 of the Schedule for a period of 5 years after the registration of this disposition in the Land Register of Scotland of Scotland.

## **Burden 15**

Deed of Servitude and Real Burdens by Stewart Milne Group Limited (the "Burdened Owner") to Taylor Wimpey UK Limited (the "Benefited Owner"), registered 28 Dec 2022, contains the following servitude rights, conditions and real burdens;

### 1. Definitions And Interpretation

#### 1.1 Definitions

In this Deed:-

"Benefited Property" means the subjects at Meikle Earnock Road. Hamilton registered under Title Number LAN247473;

"Burdened Property" means the subjects at Meikle Earnock Road. Hamilton, being the subjects in this Title;

"Cables" means all electrical plant and underground electric lines (as defined in section 64 of the Electricity Act 1989) and all appurtenant apparatus installed or to be installed along and within the Servitude Strip

"Real Burdens" means the real burdens set out in Part 3 of the Schedule;

"Schedule" means the schedule in 3 parts annexed to this Deed of Servitude;

"Servitude Strip" means the land tinted blue on the secondary layer of the cadastral map, an extract of which is included as supplementary data 4 to the title sheet forming part of the Burdened Property;

"Servitude Conditions" means the conditions under which the Servitude Rights are to be exercised set out in Part 2 of the Schedule;

"Servitude Rights" means the servitude rights set out in Part 1 of the Schedule

#### 1.2 Interpretation

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

1.2.1 words importing any gender include all other genders;

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

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

1.2.4 words importing individuals include legal persons and vice versa;

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

12.6 any reference to a Clause. Schedule or Part of the Schedule is to the relevant Clause, Schedule or Part of the Schedule of or to this Deed;

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

1 2.8 any rights reserved to the Benefited Property are exercisable by the owner of the Benefited Property and their tenants, agents, employees, workmen and others authorised by them from time to time.

### 1.3 Headings

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

### 1.4 Schedule

The Schedule forms part of this Deed

### Grant of Servitude

2.The Burdened Owner grants the Servitude Rights but subject always to the Servitude Conditions (if any).

### 3. Imposition of Real Burdens

The Burdened Owner imposes on the Burdened Property the Real Burdens in favour of the Benefited Property

### 4. Date of Commencement of Servitude

The Servitude Rights granted by this Deed will be exercisable with effect from the last date of signing hereof, being 16 Dec 2022

### 5. Warrandice



The Burdened Owner grants warrandice.

## 6. No Lands Tribunal Applications

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

## SCHEDULE

This is the Schedule referred to in the foregoing Deed of Servitude and Real Burdens by Stewart Mine Group Limited in favour of Taylor Wimpey UK Limited

### Part 1

#### The Servitude Rights

The following servitude rights are imposed on the Burdened Property in favour of the Benefited Property:-

1. For all proper purposes connected with the exercise of the rights granted in this Deed of Servitude and Real Burdens a right of access to and egress from the Servitude Strip with or without vehicles, plant and equipment and at all reasonable times (and at any time in cases of emergency).
2. The right to lay relay, construct, use, inspect, maintain, repair, protect, replace, renew, supplement, connect into, remove or render unusable the Cables and to break up so much of the surface of the Burdened Property as it reasonably necessary from time to time for the purpose of exercising this servitude right.
3. The right to fell, lop or cut in a proper manner all trees and shrubs standing on the Burdened Property which may, if not felled, lopped or cut. obstruct or interfere with the construction, maintenance or safe operation of the Cables, under payment of compensation for the value of any tree, shrub or other vegetation so felled. No compensation shall be payable by the Benefited Owner to the Burdened Owner in respect of any tree, shrub or other vegetation which may be felled or lopped within the Servitude Strip, but any such tree, shrub or other vegetation felled or lopped by the Benefited Owner within the Burdened Property shall be left for the Burdened Owner.

### Part 2

#### The Servitude Conditions

The Servitude Rights created by this Deed are subject to the following Servitude Conditions:-

1. The Servitude Rights are to be exercised using reasonable precautions to minimise damage or obstruction to or interference with the use of the Burdened Property.

2. Whenever necessary following exercise of the Servitude Rights the Benefited Owner shall either (at the Benefited Owner's option) (i) make good and restore the Burdened Property to the reasonable satisfaction of the Burdened Owner, or (ii) pay the proper and reasonable costs incurred by the Burdened Owner in making good physical damage to the Burdened Property.
3. The Benefited Owner shall obtain any necessary statutory or local authority consents or permissions or licences for the carrying out of the relevant works and comply with all applicable statutory and local authority requirements in relation to such works.
4. (Other than where necessary for the inspection, maintenance, repair, renewal or replacement of the Cables, and that for the minimum period practicable in the circumstances) no vehicles shall be parked on the Servitude Strip nor on any roadway within the Burdened Property nor materials placed on any such roadway by the Benefited Owner nor shall the Benefited Owner otherwise materially obstruct any roadway within the Burdened Property in the exercise of their rights.
5. So far as is reasonably practicable and for so long as the Cables are used for or in connection with the transmission or distribution of electricity, the Benefited Owner shall keep the Cables in good repair and condition, and upon abandonment of the whole or any part of the Cables the Benefited Owner shall render them permanently safe.
6. The Benefited Owner will indemnify the Burdened Owner in respect of all liabilities incurred, all damage and loss suffered, all claims, demands, actions and proceedings arising as a consequence of a breach by them (or those for whom they are responsible) of the servitude conditions set out in this Part 2 of the Schedule

### Part 3

#### The Real Burdens

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

1. The Burdened Owner shall not:

(a) make any alteration to the Servitude Strip, nor plant any tree or shrub or erect any structure on or over the Servitude Strip, other than with the prior written consent and under the supervision of the Benefited Owner: nor

(b) do anything (other than normal agricultural operations) whereby the support of or the cover of soil over the Cables shall be altered

other than with the prior written consent and under the supervision of the Benefited Owner (such consent not to be unreasonably withheld or delayed where such alteration, planting or erection is not likely to cause damage to the Cables or interfere with the safe operation thereof)

2. The Burdened Owner shall not do anything that may or may be likely to cause damage to the Cables and shall take all reasonable precautions to prevent any damage to the Cables

3. The Burdened Owner shall not interfere with or obstruct either the operation of the Cables or the access to the Cables

## **Burden 16**

Disposition by Stewart Milne Group Limited ("the Disponer") to Taylor Wimpey UK Limited and its successors and assignees, registered 6 Mar. 2023, of subjects at Meikle Earnock Road, Hamilton, tinted yellow on the secondary layer of the cadastral map of which an extract is included as supplementary data 3 to the title sheet, being part of the subjects registered under Title Number LAN247473 (which subjects are hereinafter referred to as "the Conveyed Property"), contains the following servitudes:

### Part 1

#### Interpretation

In this Schedule:

"Retained Property" means the subjects registered under Title Numbers LAN229895 and LAN216338 under exception of the Conveyed Property;

"Retained Road Area" means the area tinted pink on said supplementary data 3;

"Roads" means any roads, and all associated footpaths, junctions, roundabouts with relative street lighting, gutters, verges, sight lines, visibility splays, supporting and ancillary infrastructure and ancillary landscaping;

"Service Media" means all pipes, cables, wire, sewers, drains, conduits and other service media in connection with the provision of water drainage, sewerage, gas, electricity, telecommunications and any other services;

"SUDS" means the sustainable urban drainage and attenuation ponds, basins and features shown tinted blue on said supplementary data 3 and all pipes, conduits, porous material and all other apparatus serving the same, which forms part and portion of the Retained Property;

### Part 2

The following servitude rights are imposed on the Retained Property in favour of the Conveyed Property:-

1. A heritable and irredeemable servitude right to construct, install, maintain, connect into, upgrade, repair and renew the SUDS, together with all necessary rights of access over the Retained Property for the purposes of construction, installation, inspection, maintenance, repair and renewal of the SUDS and a right to use and connect into the SUDS.

2. A heritable and irredeemable servitude right of access for pedestrian and vehicular access over the Roads to be constructed within the Retained Property (including the Retained Road Area).

3. A heritable and irredeemable servitude right to install all necessary Service Media within the Retained Property (including the Retained Road Area) and thereafter use the same in connection with the Conveyed Property with rights to lay, install, inspect, repair, improve, cleanse, maintain, renew, remove and replace, enlarge or alter the Service Media which are at the time or may thereafter be required for the development of the Conveyed Property with all necessary rights of pedestrian and vehicular access at all times (including for construction traffic) over the Retained Property for the foregoing purposes. Declaring that these rights shall not be exercised over any part of the Retained Property on which houses or other buildings have been or have to be erected in terms of existing planning consents and any subsequent amendments thereto.

4. A heritable and irredeemable servitude right to construct the Roads within the Retained Road Area (and to construct any such Roads to an adoptable standard as required by the local or planning authorities, all in accordance with the relevant roads construction consent, together with a servitude right of pedestrian and vehicular access and egress at all times and for all purposes (including for construction traffic and with workmen and equipment if required) over the Retained Property for the foregoing purposes.

The foregoing servitude rights shall be exercised subject always to the proprietors from time to time of the Conveyed Property causing the least possible disturbance to the Disponer and their successors from time to time as proprietors of the Retained Property and to making good any damage caused to the Retained Property to the reasonable satisfaction of the proprietor of the Retained Property.

### Part 3

No application to the Lands Tribunal

No application will be made to the Land Tribunal for Scotland under Section 90(1)(a)(i) of the Title Conditions (Scotland) Act 2003 in respect of the servitudes set out in Part 2 of the Schedule and the burdens set out in Parts 3 and 4 of the Schedule for a period of 5 years after the registration of this disposition in the Land Register of Scotland of Scotland.

## **Burden 17**

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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