



# Registers Direct - Land Register: View Title

## MID113122

### Search Summary

<b>Date:</b>	28/11/2012	<b>Time:</b>	09:39:01
<b>Search No.:</b>	2012-03516039	<b>User Reference:</b>	general

### Sasine Search Sheet:

#### A. PROPERTY SECTION

<b>Title Number:</b>	MID113122	<b>Date of First Registration:</b>	07/10/2002
<b>Date Title Sheet updated to:</b>	24/01/2008	<b>Date Land Certificate updated to:</b>	24/01/2008
<b>Hectarage Code:</b>	0	<b>Interest:</b>	PROPRIETOR
<b>Map Reference:</b>	NT2677NW		

#### Description:

Subjects being the eastern portion of SITE A1, WESTERN HARBOUR, NEWHAVEN, EDINBURGH edged red on the Title Plan, together with the servitudes specified in the Disposition in Entry 4 of the Burdens Section.

*This is a Quick Copy which reflects the position at the date the Title Sheet was last updated.*

*It does not have the evidential status of an Office Copy.*

#### B. PROPRIETORSHIP SECTION

<b>Title Number:</b>	MID113122
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Entry Number	Date of Registration	Proprietor	Consideration	Date of Entry
1	24/01/2008	FM HOMES LIMITED incorporated under the Companies Acts, (Registered Number SC207475), Registered Office at 9 Great Stuart Street, Edinburgh, EH3 7TP.	£3075000	03/12/2007

*This is a Quick Copy which reflects the position at the date the Title Sheet was last updated.*

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#### C. CHARGES SECTION

<b>Title Number:</b>	MID113122
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<b>Entry Number</b>	<b>Specification</b>	<b>Date Of Registration</b>
1	Bond and Floating Charge by said FM HOMES LIMITED in favour of BANK OF SCOTLAND plc (Corporate Division), incorporated under the Companies Act 1985, Registered Office The Mound, Edinburgh EH1 1YZ registered in the Register of Charges 30 June 2003.	

**Notes:**

1. The above Floating Charge and the Standard Securities in entries 1 and 2 are affected by the ranking provisions in the Ranking Agreement registered 24 January 2008.

<b>Entry Number</b>	<b>Specification</b>	<b>Date Of Registration</b>
2	Standard Security by said FM HOMES LIMITED to BANK OF SCOTLAND plc (Corporate Division), incorporated under the Companies Act 1985, Registered Office The Mound, Edinburgh EH1 1YZ.	24/01/2008

**Notes:**

1. The above Standard Security the above Floating Charge and the Standard Security in entry 2 are affected by the ranking provisions in the Ranking Agreement registered 24 January 2008.

<b>Entry Number</b>	<b>Specification</b>	<b>Date Of Registration</b>
3	Standard Security by said FM HOMES LIMITED to FORTH PROPERTY DEVELOPMENTS LIMITED incorporated under the Companies Acts (Registered Number SC223863), and having their Registered Office at 1 Prince of Wales Dock, Leith, Edinburgh EH6 7DX.	24/01/2008

**Notes:**

1. The above Standard Security the above Floating Charge and the Standard Security in entry 1 are affected by the ranking provisions in the Ranking Agreement registered 24 January 2008.

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## D. BURDENS SECTION

<b>Title Number:</b>	MID113122	<b>Number of Burdens:</b>	5
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<b>Entry Number</b>	<b>Burden Preamble</b>
1	Minute of Agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997, recorded G.R.S. (Midlothian) 11 Jul. 2002 between The City of Edinburgh Council and Forth Ports plc, with consent of Cala Management Limited and Gregor Shore plc contains burdens and conditions affecting the subjects in this Title - Copy in Certificate. Note
2	Deed of Conditions by Forth Ports plc (hereinafter called "Forth Ports") and Forth Property Developments Limited (hereinafter called "the Promoter"), registered 5 Feb. 2003 in the following terms
3	Disposition by Forth Ports plc (hereinafter referred to as "Ports") and Forth

Property Developments Limited (hereinafter referred to as "the Sellers") to FM Homes Limited and their successors and assignees (hereinafter referred to as the "Purchasers"), registered 19 Jan. 2007, of the part registered under Title Number MID100315 (hereinafter referred to as "the Subjects"), forming the western portion of Plot A1 edged in blue on the Title Plan (which area edged blue on the Title Plan is hereinafter referred to as the "Whole Site"), which subjects are constituted as "the burdened property" in relation to the aftermentioned real burden, forming part of Leith Docks, Edinburgh registered under Title Number MID30200, of which the subjects in this Title form part, which subjects are constituted as "the benefited property" in relation to the aftermentioned reservations and the following real burden, contains the following servitudes and real burden

4 Disposition by Forth Ports plc (hereinafter referred to as "Ports") and Forth Property Developments Limited (hereinafter referred to as "the Sellers") to FM Homes Limited and their successors and assignees (hereinafter referred to as the "Purchasers"), registered 24 Jan. 2008, of the subjects in this Title (hereinafter referred to as "the Subjects"), forming the eastern portion of Plot A1 edged in blue on the Title Plan (which area edged blue on the Title Plan is hereinafter referred to as the "Whole Site"), which subjects are constituted as "the benefited property" in relation to the aftermentioned servitude rights and "the burdened property" in relation to the aftermentioned real burden, forming part of Leith Docks, Edinburgh registered under Title Number MID30200, which subjects are constituted as "the benefited property" in relation to the aftermentioned reservations and the following real burden and "the burdened property" in relation to the aftermentioned servitudes in favour of the Purchasers, contains the following real burden and servitudes, (One) a heritable and irredeemable servitude right of access and egress for pedestrian and vehicular traffic over those roads and footpaths constructed or to be constructed and identified variously as "Boundary Road", "Newhaven Road North", "Forth Mews" and "North Park Road" and over the road, footpath and parking spaces tinted blue on the Title Plan; (Two) a heritable and irredeemable servitude right of access and egress for pedestrian and vehicular traffic over the road constructed or to be constructed by the Sellers leading from Newhaven Road North to the publicly adopted road at Lindsay Road, Newhaven, Edinburgh and (Three) a heritable and irredeemable servitude right to connect to and use all foul and surface water drains conduits, main supply pipes, cables and other service media lying in the said roads identified respectively as "Boundary Road" and North Park Road"; DECLARING THAT there is hereby specifically reserved to the Sellers and to Ports all necessary rights of access for pedestrians and all necessary vehicles for the purposes of maintaining renewing inspecting repairing and replacing the breakwater on or toward the north west of the Subjects and all adjacent areas thereto upon which the breakwater relies for support under declaration that the aforesaid rights will be exercised by the Sellers and Ports and others authorised by them after giving reasonable prior notice to the Purchasers (except in case of emergency) and in such a manner that (1) will not constitute a danger to Health and Safety; (2) shall not interfere (except temporarily) with the development works to be carried out by the Purchasers on the Whole Site or the design or layout of the Purchasers' said proposed development and (3) the Sellers shall repair any damage caused to the Subjects to the reasonable satisfaction of the Purchasers; And under the following additional real burden, namely that the Purchasers shall use the Subjects in all time coming only for the purposes of development, construction and maintenance thereon of residential housing and for all ancillary purposes and for no other purpose whatsoever without the prior written consent of us the Sellers and our successors as proprietors of the Estate.

5 Explanatory Note

**Entry  
Number**

**Burden Detail**

1 Minute of Agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997, recorded G.R.S. (Midlothian) 11 Jul. 2002 between The City of

Edinburgh Council and Forth Ports plc, with consent of Cala Management Limited and Gregor Shore plc contains burdens and conditions affecting the subjects in this Title - Copy in Certificate. Note: Copies of the deed plans 1, 2, 3, 4 and 5 and the 3 drawings annexed to the above Minute of Agreement are included in this Title Sheet as Supplementary Plans Nos. 1, 2, 3, 4, 5, 6, 7 and 8 to the Title Plan.

**Entry  
Number**

**Burden Detail**

2 Deed of Conditions by Forth Ports plc (hereinafter called "Forth Ports") and Forth Property Developments Limited (hereinafter called "the Promoter"), registered 5 Feb. 2003 in the following terms: WHEREAS Forth Ports is heritably vest in the Estate and holds the Estate in trust for the Promoter. It is the intention of the Promoter to sell, dispone, lease or otherwise deal separately in the Residential Land and to carry out development of the Commercial Land and it is desirable to grant These Presents in order to define the rights, burdens, conditions and other provisions under which the Residential Land and the Commercial Land and each part thereof shall be held by the respective proprietors therefor from time to time (without prejudice to the insertion in individual conveyances of further or special provisions). It is the intention of the Promoter to develop the Public Realm Area by carrying out the Public Realm Works and it is desirable to grant These Presents in order to define the burdens, conditions and others under which the Public Realm Area shall be held by the Promoter and its successors in title to the Public Realm Area. Forth Ports and the Promoter for their respective interests in the Estate have agreed to grant These Presents for the purposes of creating real burdens on and affecting the Public Realm Area, the Residential Land and the Commercial Land respectively. NOW THEREFORE we the said Forth Ports plc and we the said Forth Property Developments Limited for our respective interests in the Estate do hereby Declare and Provide as follows: 1. Definitions and Interpretation "Adopted" in relation to any road, pavement, footpath or sewer means that liability for the maintenance and repair of the same has been assumed by the relevant local authority or statutory body; "Approved Form" means in relation to any deed or document in that form as shall be approved in writing by the Promoter (who shall be bound to act reasonably) for the purposes of this Deed; "Associated Company" means at any time a company which is at or in respect of that time a subsidiary company or holding company or subsidiary undertaking all as defined in the Companies Act 1985 (as amended) of Forth Ports or the Promoter or any holding company of either of them; "Building Plots" means Plots 1A and 1B, Plot 2A and in addition those other individual parts of the Residential Land as are from time to time sold by the Promoter individually to Developers as such parts are indicatively shown on Plan 2 but for the avoidance of doubt always excluding Plot 2B; "Commenced" in relation to Commercial Development or the Public Realm Works means that a material commencement of works has been made; "Commercial Development" means any development pursuant to the grant of a planning permission for a use other than residential use; "Commercial Land" means that part of the Estate shown outlined in blue on Plan 1 or any greater or lesser part of the Estate which is designated by the Promoter at any time for the purpose of identifying the extent of such part at that time but always excluding the land occupied by the Superstore Development unless and to the extent the same is specifically designated by the promoter for the purpose of including the Superstore Development within the ambit of These Presents; "Commercial Proprietor" means as the case may be at any time a person who has completed title to a Commercial Unit or a Commercial Unit (Public Realm) at or in respect of that time; "Commercial Unit" means at any time any building constructed at or prior to that time on the Commercial Land; "Commercial Unit (Public Realm)" means at any time any building or buildings or any part of a building comprising retail premises, pub restaurant, cafe, leisure or other like commercial outlet constructed at or prior to that time on the Public Realm Area by the carrying out of Permitted Development but excepting always for the avoidance of doubt any school, creche or other public building (including a museum) and any pumping station, electricity substation, gas governor or other similar installation; "Common Roads and Services" means (1)

the Roads and Footpaths and (2) the Common Utilities; "Common Utilities" means all supply pipes, cables, servers, drains and outfalls serving or benefiting the Estate as presently existing or to be provided by or at the request of the Promoter including those described in clause 2.1(c)(d)(e) and (f); "Completed" means in relation to any Commercial Unit or Commercial Unit (Public Realm) or Residential Unit, or Infrastructure Works or Public Realm Works or any other buildings or works on the Estate that there has been issued either an architect's certificate of practical completion, an engineers certificate of substantial completion or a certificate of temporary habitation by the relevant local authority and the expression "Completion" shall be construed accordingly; "Designated" means in relation to any part of the Estate for any purpose the granting by the Promoter of a Supplemental Deed which is registered against the title of the Estate containing a plan showing the extent of such part having or otherwise giving effect to such purpose and the expression "Designate" shall be interpreted accordingly; "Developed" means in relation to a Building Plot that the first or only building to be constructed thereon pursuant to the Plot Development Works has been Completed; "Developer" means any person to whom the Promoter has sold and who has completed title to a Building Plot or where the context requires the successor in title to such person in respect of any Residential Unit on such Building Plot which is not Sold; "this Deed" means this Deed of Conditions; "Estate" means the area of land (partly covered by water) at Western Harbour, Leith belonging to the Promoter and shown outlined in red on Plan 1 or such greater or lesser area at Western Harbour which is Designated by the Promoter at any time for the purpose of defining more accurately the extent of the Estate; "Estimated GIA (Commercial)" and "Estimated GIA (Residential)" shall have the meanings given to them respectively in clause 7.5.1 and the expression "Estimated GIA" means that one of them or both of them as the context requires; "GIA" means in relation to any Residential Unit or any Commercial Unit or other building constructed or to be constructed by Permitted Development the gross internal floor area expressed in square feet (as measured in accordance with the Joint ISVA/RICS Code of Measuring Practice 5th Edition, dated Nov. 2000) as determined by the Promoter whose determination shall be conclusive save for manifest error; "Infrastructure Works" means the works carried out or to be carried out by or on behalf of the Promoter and at its own expense to provide the Common Roads and Services, the Quay Walls, the building platform of the Residential Land and the Water Feature; "Manager" has the meaning given to it in clause 6.3; "Masterplan Outline Consent" means (1) the planning permission granted by City of Edinburgh Council, dated 1 Jul. 2002 under reference 01/03229/OUT, (2) all urban design guidance in relation to the Residential Area and/or the Public Realm Area formally approved from time to time by City of Edinburgh Council pursuant to and in terms of such planning permission, (3) any approval of details or reserved matters of or in relation to the Public Realm Area granted pursuant to such planning permission and (4) any other planning permission granted subsequently in relation to the Estate or any part thereof on the application of the Promoter; "Period of Charge" has the meaning given to it in clause 7.3 and "Relevant Period of Charge" shall be interpreted accordingly; "Permitted Development" means the construction on any part of the Public Realm Area of all or any of: a nursery school, primary school or creche, not more than ten (10) Commercial Units (Public Realm) each having a floor area not exceeding one thousand (1000) square feet GIA, a museum, art gallery or other similar visitor attraction, a concert hall or concert arena or other similar visitor attraction, a public slipway, jetty and/or marina with associated buildings including a chandlery, car parking facilities, sports or leisure facilities such as tennis courts, playing pitches and swimming pools, such other form of development which is in the reasonable opinion of the Promoter intended to enhance the amenities provided by the Public Realm Area, any pumping station, electricity substation or housing for an electricity transformer or other equipment, housing for a gas governor or any other like installation, any Infrastructure Works; "Phase" means at any time that section or phase of the Public Realm Works which has at or prior to that time been Completed by the Promoter in accordance with the Masterplan Outline Consent and the expressions "First Phase", "Last Phase" and "Relevant Phase" shall be interpreted accordingly; "Plan 1" means Supplementary Plan No. 9 to the Title

Plan; "Plan 2" means Supplementary Plan No. 10 to the Title Plan; "Plot 1A and 1B" means that area of land shown coloured yellow on Plan 2; "Plot 2A" means that area of land shown coloured red on Plan 2; "Plot 2B" means that area of land shown coloured green on Plan 2; "Plot 1A and 1B Proprietor" means at any time a person who has completed title to a Residential Unit in Plot 1A and 1B at that time; "Plot Development Works" means in relation to any Building Plot the works to be carried out in accordance with the Masterplan Outline Consent from time to time by Developers to provide on that Building Plot flatted dwellinghouses with associated parking and landscaped areas; "Promoter" includes any Successor; "Proprietors" means at any time those persons who have completed title to the Residential Units at or in respect of that time; "Proprietors Representatives" has the meaning given to it in Clause 7 to 11; "Public Realm Area" means at any time such part of the Estate as is at that time Designated by the Promoter for the purpose of identifying the scope of the Public Realm Works or any Phase thereof prior to the Public Realm Works or the Relevant Phase being Commenced; "Public Realm Works" means the Works to be carried out by the Promoter on the Public Realm Area in compliance with the Masterplan Outline Consent to provide inter alia a park, leisure facilities, a Water Feature, access to the waters edge and other amenities benefiting the Building Plots and the Commercial Land; "Public Realm Items" means all and any fences and walls, jetties, shelters, pagodas, seating, playpark equipment, closed circuit television equipment, works of art and other such items of a moveable or renewable or replaceable nature provided by the Promoter as part of the Public Realm Works; "Quay Walls" means the entire structure and fabric (including sheet piling, tie rods and other structural items) comprising part of the Infrastructure Works in order to enclose the northern and eastern boundaries of the Estate in the positions indicated by the lettering A-B on Plan 1; "Residential Land" means that part of the Estate shown outlined in red on Plan 2 or any greater or lesser part of the Estate which is Designated by the Proprietor at any time for the purpose of identifying the extent of such part at that time but always excluding all and any Social Housing and the housing units forming part of the Superstore Development unless and to the extent the same is specifically Designated for the purpose of including the same within the ambit of These Presents; "Residential Units" means at any time those flatted dwellinghouses which have been Completed on the Residential Land at or prior to that time; "Roads and Footpaths" means all roads, footpaths, associated street lighting and hard and soft landscaping serving the Estate as presently existing or to be provided by or at the request of the Promoter including those described in clause 2.1(a) and (b); "Services" means in relation to the Public Realm Area the Common Roads and Services and the Quay Walls or any part thereof as the case may be at any time all services and other functions as are carried out or provided at or in respect of that time by or on behalf of the Promoter in order to maintain and continue the benefit of the amenity of the Public Realm Area in accordance with the principles at that time of good property management practice and including without prejudice to the foregoing generality (a) the repair, maintenance (including grass cutting, maintenance of planting and landscaping and cleaning all as appropriate), renewal or replacement of the Public Realm Area and all Public Realm Items, (b) the repair, maintenance and, where necessary, renewal or replacement of the Common Roads and Services until the same are respectively Adopted, (c) taking all steps deemed desirable or expedient by the Promoter for complying with or making representations against (or otherwise contesting) the provisions of any legislation or orders or statutory requirements thereunder concerning Health and Safety, Town and Country Planning, Compulsory Purchase, Public Health, Buildings, Highways, Streets, Drainage and other matters relating to or alleged to relate to the Public Realm Area, (d) the collection and disposal of litter and refuse from and the cleansing of the Public Realm Area including cleaning and maintaining the Water Feature, (e) the clearing of snow from Roads and Footpaths (to the extent not the responsibility of the local authority) and from all other roads, access ways, ramps, paths, pavements, parking areas, lanes, driveways and walkways within the Public Realm Area and the gritting or sanding thereof, (f) insuring the Public Realm Area and insuring the Quay Walls in terms of Clause 6.2, (g) the regular inspection (not less frequently than annually) of the Quay Walls and to the extent not covered under the insurance or sinking fund to be maintained in

terms of clause 6.2 the maintenance and repair when necessary of the Quay Walls, (h) providing security services including the monitoring of closed circuit television or other security devices if and to the extent the Promoter or the Manager reasonably considers the same ought to be provided, (i) providing such other services as the Promoter considers ought properly and reasonably to be provided for the benefit of the generality of the Proprietors and/or the Public Realm Area; "Service Charge Estimate" has the meaning given to it in clause 7.3; "Service Charge Expenditure" means at any time all costs and other expenditure properly and reasonably incurred by or on behalf of the Promoter at or in respect of that time in or about or in connection with the provision of the Services and in addition (a) all existing or future taxes, rates, ground burdens, charges, duties, assessments, impositions and outgoings whatsoever in respect of the Public Realm Area, (b) the salaries or other payments made from time to time in connection with the engagement of staff employed by the Promoter or the Manager in the provision of the Services or otherwise arising from These Presents, (c) the reasonable and proper fees, costs and expenses incurred by the Promoter in the performance of the Services including without prejudice to the generality of the foregoing all reasonable fees, costs and expenses payable by the Promoter to the Manager or otherwise incurred in the exercise of the power conferred by clause 6.3, (d) VAT in respect of any items of expenditure hereinmentioned but only to the extent that such is not recoverable by the Promoter or the Manager by way of payment or repayment from H M Customs and Excise (or such other competent regulatory body as shall be appropriate) or as a credit in calculating the liability of the Promoter or the Manager to pay VAT, (e) the annual premium and other costs of the insurances referred to in clause 6.2 and if applicable such annual sum as the Promoter shall reasonably determine as necessary to maintain a sinking fund for the replacement of the Quay Walls in the circumstances contemplated by clause 6.2(e). PROVIDED ALWAYS that (1) there shall be excluded from any computation of expenditure falling within the foregoing definition, all costs and expenditure (including in particular expenditure of a capital nature) incurred by or on behalf of the Promoter prior to the Public Realm Works being Completed in or in relation to the design and execution of the Public Realm Works and providing the Public Realm Items and Water Feature including all professional fees and VAT paid or incurred by the Promoter in that connection or incurred by the Promoter in connection with the drafting and subscription of this Deed and (2) all sums received at any time as a contribution towards such expenditure from the operator of any commercial marina or similar commercial operation forming part of or benefiting from the Water Feature jetty or any other similar part of the Public Realm Area who is not a Commercial Proprietor shall be credited to or otherwise left out of account in computing Service Charge Expenditure at that time; "Service Charge Share" means in relation to any Period or Charge an amount payable respectively by a Developer, by a Proprietor or by a Commercial Proprietor which is ascertained in accordance with clause 7.3.1, 7.3.2 and/or 7.3.3 respectively; "Social Housing" has the meaning given to it in the Masterplan Outline Consent and where the context requires includes any housing units constructed or to be constructed from time to time on any part of the Estate which fall within that meaning; "Sold" in relation to any Residential Unit means that that Residential Unit has been sold to a Proprietor on the first occasion prior to or after the same is Completed; "subscribed" has the meaning given to it in the Registration of Title (Scotland) Act 1995; "Successor" has the meaning given to it in Clause 9; "Superstore" means at any time a food superstore with integral housing units constructed at or prior to that time on the Estate; "Supplemental Deed" means any Deed of Conditions supplemental to this Deed subscribed and registered by the Promoter against the title of the Estate or any part thereof; "These Presents" means this Deed and any deed supplemental to or amending this Deed which is in compliance with Clause 12 (variations to this deed); "VAT" in relation to any sum of money or payment means value added tax payable under the Value Added Tax Act 1994 or any similar tax on the supply of goods and services replacing the same; "Water Feature" means any lake, lagoon, canal or basin formed as part of the Public Realm Works but always excluding any such comprising or forming part of a commercially operated marina at any time; "Working Day" means any day excluding Saturdays, Sundays and public holidays in

Edinburgh or Glasgow or bank holidays in the City of London; 1.2 Unless the context otherwise requires and references to a Clause are to a Clause of this Deed; 1.3 Words importing the singular meaning where the context so allows include the plural meaning and vice versa; 1.4 Words of one gender include both other genders and words denoting natural persons include corporations and firms and all such words are to be constructed interchangeably in that manner; 1.5 The Clause headings in this Deed are for convenience only and do not affect its interpretation; 1.6 References to a statute or a provision of a statute include any statute or provision of a statute amending, consolidating or replacing it for the time being in force; and reference to statute includes a reference to any delegated legislation referable thereto; 1.7 Words denoting an obligation on a party to do any act, matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to permit or allow infringement of the restriction.

2. Common Rights Granted

2.1 There are hereby granted in favour of each Building Plot, the Public Realm Area and of the Commercial Land and the Proprietors and the Commercial Proprietors from time to time the right if and to the extent the same is necessary to serve that Building Plot, the Public Realm Area and any part of the Commercial Land to use and enjoy (but subject to the provisions of clause 2.2 below) for all normal purposes consistent with the occupation and use of the buildings to be constructed on the Building Plots as Residential Units and the construction, occupation and use of the Commercial Units: (a) the roads and footpaths from time to time in or serving the Estate together with the associated street lightning, which roads in the form that they are proposed to be completed by the Promoter are as shown coloured brown on Plan 1, (b) all hard and soft landscaped areas forming part of the Estate but lying outwith the Public Realm Area and the boundaries of any Building Plot or any part of the Commercial Land to be provided by or at the request of the Promoter, (c) the main water supply pipes and gas supply pipes to the extent that they lie outwith the boundaries of the Residential Land or the Commercial Land, (d) the main electricity supply cables to the extent that they lie outwith the boundaries of the Residential Land or the Commercial Land and any electricity sub-station provided at the Promoter's cost and intended to serve inter alia the Residential Land and the Commercial Land, (e) the main sewers, surface and foul water drains, outfalls and other drains serving or benefiting the Residential Land or any part thereof or the Commercial Land or any part thereof; (f) any ducting provided by the Promoter or at the Promoter's cost for telecommunications cables and fibre optic cables to the extent that it lies outwith the boundaries of the Residential Land or the Commercial Land;

2.2 The foregoing rights shall be exercised in a reasonable manner by each Developer and each Proprietor and/or Commercial Proprietor and the Promoter shall be entitled to divert the route of the Common Roads and Services or otherwise to vary or amend (and, where appropriate, reconstitute) or temporarily suspend such rights for all reasonable or necessary purposes provided that the Promoter (a) gives reasonable notice (except in case of emergency) to any Developers and any Proprietor and/or Commercial Proprietor who would be directly affected by such diversion, variation, amendment, reconstitution or suspension, (b) makes adequate provision for the continued exercise of such rights temporarily or permanently by an alternative means which is reasonably adequate for the purpose and in the case of the diversion or amendment of a road or footpath provides a means of access which is practical and not materially less convenient having regard to all the circumstances than the former route.

3. Reservations

3.1 There are reserved from the Residential Land in favour of Forth Ports and the Promoter and any other person to whom Forth Ports and/or the Promoter may competently confer the same but subject always to the proviso in clause 3.2 such servitude rights of access, egress, wayleave and other rights over, under, through or across any Building Plot or any part or parts thereof as may be reasonably required in order to facilitate the development of the Estate in accordance with the Masterplan Outline Consent and without prejudice to the foregoing generality (a) the power to lay, maintain, renew and replace pipes, drains, cables, conduits and others in connection with the provision (so far as not already done) extension or improvement of the Common Utilities, (b) the power to use the Common Roads and Services for any purpose either exclusively or in common with all others



entitled to use the same and to extend to others the rights hereby granted to make use of the same, (c) the power to make connections to the Common Utilities; 3.2 The foregoing reservations shall be exercised in a reasonable manner by Fort Ports and the Promoter and all others to whom they may confer the right to exercise the foregoing reservation and without prejudice to the foregoing generality (a) In exercise of the power to provide, extend or improve the Common Utilities the Promoters shall consult with each Developer and any Proprietor of each Building Plot (an "Affected Building Plot") through which such pipe, drain, cable, conduit or other is to be laid and shall obtain the prior approval of such Developer or Proprietor (which approval shall not be unreasonably delayed) to the proposed route so far as it lies within the Affected Building Plot and in any event all pipes, drains, cables and conduits to be laid through any Affected Building Plot shall be laid so as to avoid all existing buildings or any other works on the site of any proposed buildings or other works as shall be intimated by the Developer thereof at the time such approval is applied for; (b) The Promoters shall make good or procure that there is made good all damage or disturbance occasioned by the exercise of the foregoing sewers; 3.3 Without prejudice to clause 3.1 there is also reserved to the Promoter and all others authorised by the Promoter full power to carry out the Public Realm Works and the Infrastructure Works and that notwithstanding any term of conditions of These Presents to the contrary and the grant to the Developers or Proprietors or Commercial Proprietors of conveyances of individual Building Plots or Commercial Units or Residential Units and for the foregoing purpose (a) the Promoter shall before commencing any element of the Public Realm Works or the Infrastructure Works if and to the extent that the commencement of such element would adversely affect the ability of any Developer to commence, carry out or complete the Plot Development Works or to give access to a Proprietor of a Residential Unit consult with such Developer and use all reasonable endeavours to co-ordinate the commencement and completion dates of such element of the Public Realm Works or the Infrastructure Works, as the case may be, so that any such Developer is not unreasonably impeded from commencing or completing the Plot Development Works or from giving access to a Proprietor of a Residential Unit, (b) the Public Realm Works shall be carried out by the Promoter in compliance with the requirements of the Masterplan Outline Consent in a good and workmanlike manner, (c) the Infrastructure Works shall be carried out by the Promoter in a good and workmanlike manner in compliance with the requirements of any necessary Road Construction Consent and otherwise in compliance with the requirements of the relevant local authority or service provider, (d) the Public Realm Works and the Infrastructure Works shall be carried out in such phases or stages as the Promoter in its reasonable discretion may determine. 4. Public Realm Area 4.1 From and after the date on which the Public Realm Works are Commenced the Public Realm Area shall be used only for the following purposes (a) for the carrying out of the Public Realm Works and any Infrastructure Works which it is necessary to carry out within or affecting the Public Realm Area, (b) for the carrying out of Permitted Development; 4.2 After the Public Realm Works or any Permitted Development has been Completed the Public Realm Area shall be used only in accordance with clause 4.3; 4.3 The Public Realm Area (excepting any Commercial Unit (Public Realm) or other part or parts occupied by Permitted Development from time to time) shall be used predominately as a park containing a Water Feature (and providing inter alia vehicular and pedestrian access to a public slipway or jetty) to which all Proprietors and Commercial Proprietors and members of the public shall have access at all times together with use for the enjoyment of such other amenities and leisure or recreation related facilities (where appropriate by Permitted Development) as the Promoter who shall be bound to act reasonably and in accordance with the Masterplan Outline Consent may determine (and where necessary or appropriate Designate) from time to time; 4.4 Without prejudice to the whole provisions of clauses 4.1 and 4.3 and without prejudice to the power of the Promoter to carry out or permit the carrying out of Permitted Development neither Fort Ports or the Promoter shall sell, lease, convey or otherwise dispose of or use or permit to be used the Public Realm Area or any part or parts thereof for a residential development or for a commercial development which is not Permitted Development; 4.5 Without prejudice to Clause

12 (variations to this Deed) the Promoter shall have full power and liberty to lease, sell, convey or otherwise dispose or use or permit to be used any part or parts of the Public Realm Area and/or any Commercial Unit (Public Realm) constructed or to be constructed thereon to such person and on such terms and conditions as the Promoter may at its sole discretion determine provided always that (i) the provisions of the Masterplan Outline Consent so far as applicable at the time of such sale, lease, conveyance or other disposal are not breached as a consequence thereof, (ii) such sale, lease, conveyance or other disposal is for the purpose of Permitted Development or concerns the use of a Commercial Unit (Public Realm) or other building constructed as a result of Permitted Development.

5. Building Plots

5.1 The Building Plots shall be used by each Developer for the construction thereon in accordance with the Masterplan Outline Consent of a residential development with relative car parking and landscaping and for no other purpose except any ancillary retail space which is required in terms of the Masterplan Outline Consent;

5.2 The Residential Units shall each be used by each Proprietor predominately for residential purposes;

5.3 Each Developer is hereby taken bound in selling, disposing or otherwise conveying Residential Units which are Sold by that Developer to demonstrate to the Promoter that the Developer shall have taken all requisite steps to register a deed of conditions against the title of such Residential Units in terms of which each such Developer shall (a) allocate to each Residential Unit and the Proprietors thereof from time to time the obligation to make payment to the Promoter of the Service Charge Share applicable to each Residential Unit (as defined in clause 7.4), (b) procure that each Proprietor is taken bound to maintain the Residential Unit owned by that Proprietor in good and substantial condition and repair at all times, (c) impose on the Proprietor of each such Residential Unit obligations to insure the Residential Unit or alternatively to contribute towards the insurance of the building of which it forms part for the full reinstatement value thereof against the risk of fire, storm, tempest and other normal risks so that each Residential Unit which is Sold shall be and is hereby burdened with the foregoing obligations and such other obligations and undertakings as are consistent with These Presents.

6. Services

6.1 The Promoter shall from and after the respective dates on which the Public Realm Works (or the Relevant Phase thereof) and the Infrastructure Works are respectively Completed to provide the Services in a regular and efficient manner and in accordance with the provisos of this clause and the whole other terms and provisions of These Presents;

6.2 The Promoter shall use all reasonable endeavours (a) to obtain and maintain insurance cover from a reputable European underwriter in respect of any latent or inherent defects occurring in the Quay Walls for a period of ten (10) years after the same are completed; PROVIDED ALWAYS that if the costs of taking out such cover comprise a single premium and the reimbursement of professional fees such costs shall be deemed to be included in the cost of the Infrastructure Works and shall not form part of the Service Charge, (b) to obtain and maintain insurance cover from a reputable European underwriter in respect of the estimated capital cost of replacing the Quay Walls at the end of their designed life, (c) to obtain and maintain insurance cover from a reputable European underwriter against property owner's liability employer's liability and third party risks and such other appropriate risks consistent with the ownership, use and enjoyment of the Public Realm Area and the Public Realm Items for their intended purpose as the Promoter may reasonably determine from time to time, (d) to recover all sums claimed under the foregoing insurances and to apply the same if and to the extent the same has been recovered in meeting costs incurred in or in connection with the provision of Services so that such costs do not become or a re-credited to Service Charge Expenditure, (e) in the event that the insurance cover referred to in paragraph (b) above is not or ceases to be on reasonable terms to establish a sinking fund or replacement fund for such estimated cost and to procure that such fund is held in trust for the Proprietors for the foregoing purpose;

6.3 Without prejudice to clause 6.4 the Promoter at any time after (but not before) all of the Public Realm Works have been Completed shall be entitled to employ directly or indirectly personnel to carry out and perform the Services on a day to day basis and/or to delegate the performance of all or any of the Services to or otherwise contract with any company or person including a managing agent who is suitably skilled and

experienced for that purpose ("the Manager") and the proper and reasonable costs of employing such personnel and/or under or in connection with the appointment of a Manager shall constitute Service Charge Expenditure for the purposes of this Deed; 6.4 The Promoter and/or the Manager shall have full power to instruct and have executed from time to time such works to the Public Realm Area such regular maintenance and other works necessary to enable the Promoter to perform the Services and such (if any) other works as the Promoter in its judgement (acting reasonably) shall consider necessary or desirable for the repair, maintenance and, where necessary, in the nature of maintenance and repair the renewal of the Public Realm Area, the Public Realm Items or the Common Roads and Services (unless and until the same are Adopted) and the Quay Walls.

### 7. Service Charge

#### 7.1

Subject to the whole provisions of this clause the Promoter, the Developers, the Proprietors and, where applicable, the Commercial Proprietors (if any) shall each be liable from time to time to contribute towards Service Charge Expenditure as follows:- (a) Developers in respect of Residential Units which have been Completed but have not been Sold; (b) Proprietors in respect of Residential Units which have been Sold; (c) Commercial Proprietors (if any) in respect of Commercial Units or Commercial Units (Public Realm) which have been Completed and which are owned from time to time by them; (d) The Promoter in respect of the balance at any time of Service Charge Expenditure for which none of the Developers the Proprietors or the Commercial Proprietors are liable at that time;

#### 7.2

The Promoter (or the Manager on its behalf) shall give to all Developers, Commercial Proprietors and the Proprietors' Representatives in advance of each Period of Charge a statement showing in reasonable detail the heads of anticipated Service Charge Expenditure and the budgeted sums falling under such heads which the Promoter anticipates will be incurred in the relevant Period of Charge ("the Service Charge Estimate"); and the Promoter shall give bona fide consideration to any reasonable and proper representatives made by Developers Commercial Proprietors and the Proprietors' Representatives in relation to any Service Charge Estimate;

#### 7.3

As soon as reasonably practicable prior to 31st December in that year and in each year thereafter the Promoter shall prepare a Statement bringing out in reasonable detail the heads of expenditure the Service Charge Expenditure incurred under such heads by or on behalf of the Promoter and the Service Charge Share payable respectively by Developers, Proprietors and (if any) Commercial Proprietors and the balance of Service Charge Expenditure due by the Promoter (each such Statement being herein called a "Service Charge Statement") in respect of the period ending on that date and in respect of each year thereafter (each herein called "Period of Charge") and shall furnish a copy thereof to the Developers, the Proprietors and the Commercial Proprietors and each Developer, each Proprietor and each (if any) Commercial Proprietor shall respectively pay and contribute towards in each Period of Charge the Service Charge Expenditure incurred in or in respect of such Period of Charge as follows;

#### 7.3.1

(a) Each Developer shall be liable for an amount calculated as follows  $£A = b/a \times D$  Where  $£A$  = the amount in pounds sterling a = the aggregate of the Estimated GIA (Residential) and the Estimated GIA (Commercial) b is the aggregate Estimated GIA (Residential) of all Residential Units which have been Completed on a Building Plot owned by that Developer but not Sold at that time D is the total Service Charge Expenditure for the Relevant Period of Charge;

#### 7.3.2

Subject to clause 7.4 each Proprietor shall be liable for an amount calculated as follows  $£A = c/a \times D$  Where c = the Estimated GIA (Residential) of the Residential Unit which is owned by that Proprietor and the values of  $£A$ , a and D have the meanings given to them in clause 7.4.1 above;

#### 7.3.3

Each (if any) Commercial Proprietor of a Commercial Unit or a Commercial Unit (Public Realm) which has been Completed shall be liable for an amount calculated as follows  $£A = d/a \times D$  Where d = the Estimated GIA of the Commercial Unit or Commercial Unit (Public Realm) owned by that Commercial Proprietor and the values of  $£A$ , a and D have the meanings given to them in clause 7.4.1 above;

#### 7.4

The provisions of clause 7.3 are subject to the following provisos (a) Without prejudice to paragraph (b) below the Service Charge Share for each Residential Unit in respect of each Period of Charge from or including the date of Completion of the First (or only) Phase of the Public Realm Works ("the Completion Date") and payable in respect of each Residential Unit until the date ("the Relevant Date") of

commencement of the Period of Charge first occurring after the fifth anniversary of the Completion Date shall not exceed the sum of £200 for each such Period of Charge and the Promoter shall be responsible for (and shall accordingly free and relieve the Proprietors from) any Service Charge Share in any such Period of Charge to the extent it exceeds that amount until the Relevant Date; (b) Notwithstanding any term or provision to the contrary in this Deed the Service Charge Share payable in respect of each Residential Unit within Plot 1A and 1B which is Completed shall be restricted to the fixed sum of Fifty (£50) for each Period of Charge from or including the Completion Date until the Relevant Date; (c) For the avoidance of doubt there shall be no payment due by owners of Social Housing or residential units within the Superstore Development or Plot 2B unless and to the extent the same or any of them is Designated for the purpose of allocating liability thereon; 7.5 For the purposes of the foregoing 7.5.1 The Promoter (or the Manager on its behalf) both of whom shall be bound to act reasonably and in accordance with the standards of care and skill normally applicable to a competent general practice surveyor but whose determination shall be conclusive (and save only for manifest error shall not be subject to determination by arbitration or other review) shall have the sole discretion to estimate and ascertain the Service Charge Expenditure and the Service Charge Share; 7.5.2 The Promoter shall prior to the issue of the first Service Charge Estimate and at such intervals from time to time thereafter which the Promoter reasonably considers to be appropriate and having regard to the extent of the Building Plots which have been Developed the Masterplan Outline Consent and such information as the Promoter has at the relevant time in relation to the size of Residential Units in Building Plots which are or are intended to be Developed determine (a) a reasonable estimate at that time of the GIA ("Estimated GIA (Residential)") of each of the Residential Units and other flatted dwellinghouses constructed or to be constructed on the Residential Land for which at that time planning permission has been granted pursuant to the Masterplan Outline Consent and on the assumption if not a fact (i) all such Residential Units and flatted dwellinghouses have been Completed, (ii) information obtained at that time from all Developers can be applied in order to arrive at an estimate of such GIA in relation to Building Plots which have not been Developed at that time, (b) a reasonable estimate at that time of the GIA of all Commercial Units or Commercial Units (Public Realm) which the Promoter intends to construct or procure the construction of at that time ("Estimated GIA (Commercial)"); 7.5.3 The Promoter shall be entitled to Designate at any time and from time to time the Estimated GIA for the purpose of recording at that time the Service Charge Shares; 7.6 The Service Charge Share shall be paid in advance by each of the Proprietors, the Developers who are liable for the same and by each (if any) Commercial Proprietor (in this clause each a "Relevant Proprietor") as follows 7.6.1 on 1st January and 1st July in each Period of Charge the sum (exclusive of VAT) notified by the Promoter or the Manager to each Relevant Proprietor equivalent to one-half of the estimated Service Charge Share as being payable by that Relevant Proprietor as brought out in the Service Charge Estimate for that Period of Charge; 7.6.2 within 10 Working Days after receipt from the Promoter or the Manager by each Relevant Proprietor of a copy of a Service Charge Statement for the Relevant Period of Charge the amount (if any) (exclusive of VAT) by which the Service Charge Share ascertained in accordance with the Service Charge Statement exceeds the total of the two half yearly instalments (exclusive of VAT) paid by the Relevant Proprietor for the Period of Charge pursuant to Clause 7.6.1 UNDER DECLARATION THAT any amounts by which said total exceeds the amount ascertained in accordance with the Service Charge Statement shall be retained by the Promoter or the Manager and taken into account by them in determining the half yearly instalments of the estimated Service Charge Share due in respect of the Period of Charge next succeeding; 7.6.3 the Promoter (either acting itself or through the Manager) shall be bound to and shall have power to sue for and recover by legal process the amount of the half yearly instalments or other sums (including VAT) due and payable in terms of this Deed which have not been paid and shall also be empowered to sue on behalf of the Relevant Proprietor generally any persons responsible for damage to the Public Realm Area or the Common Roads and Services or the Quay Walls and each of the

Relevant Proprietor shall be taken bound to grant any further authority which may be necessary to give effect to this clause; 7.6.4 notwithstanding anything to the contrary contained herein if the Service Charge Share or any estimated instalment payable in terms of Clause 7.6.1 in respect of any Residential Unit or Commercial Unit has not been paid by a Relevant Proprietor or VAT in respect thereof ("Defaulting Proprietor") remains unpaid after a demand for payment has been issued by the Promoter or the Manager and a decree of court has been obtained therefor (such unpaid part or VAT being referred to as the "Arrears"), the Promoter or the Manager shall be entitled on expiry of the period of the 10 Working Days after the date of such decree to apply the Arrears together with the reasonable expenses incurred by the Promoter or the Manager in recovering such Arrears (except and to the extent the same have been previously paid) to Service Expenditure falling within the then current Period of Charge UNDER DECLARATION that the remaining Proprietors shall be entitled to recover the amount so applied from the Defaulting Proprietor; and 7.7 Without prejudice to and subject always to clause 7.4.4 when all of the Residential Units to be constructed on the Residential Land have been Completed and all Commercial Units and Commercial Units (Public Realm) have been Completed, the Service Charge Share payable respectively by each of the Proprietors the Commercial Proprietors and/or by the Promoter or its successor in title to each Commercial Unit and Commercial Unit (Public Realm) shall be recalculated as follows (a) in respect of each Residential Unit  $£A = a/(b + c) \times D$  (b) in respect of each Commercial Unit and each Commercial Unit (Public Realm)  $£A = d/(b + c) \times D$  Where A is the Service Charge Share payable in respect of the Relevant Period of Charge a is the GIA of the Residential Unit owned by that Proprietor b is the aggregate GIA of all Residential Units at that time c is the aggregate GIA of all Commercial Units and Commercial Units (Public Realm) at that time d is the GIA of the Commercial Unit or Commercial Unit (Public Realm) owned by that Commercial Proprietor or the Promoter as the case may be D is the Service Charge Expenditure in respect of the Relevant Period of Charge All as such GIA shall be estimated or otherwise determined by the Promoter in accordance with the principles set out in clause 7.5.1; 7.8 In every case where in this Deed a Relevant Proprietor is obliged to pay an amount of money such amount shall be regarded as being exclusive of all VAT which may from time to time be legally payable thereon and such Relevant Proprietor in exchange for a valid VAT invoice shall pay to the Promoter or the Manager (or other party entitled to receive payment of the amount of money) such amount of VAT at the rate for the time being in force as shall be legally payable in respect of such amount of money; 7.9 Interest shall accrue on any payments due by any Relevant Proprietor in terms of this Deed from the date occurring 14 days after the date of issue of a written demand therefor to that Relevant Proprietor by or on behalf of the Promoter until paid at the rate of four per centum per annum above the base rate from time to time of Bank of Scotland or above such other rate reasonably equivalent thereto which may from time to time be substituted therefor by the Promoter; 7.10 In the event of any Developer by virtue of any particular use of or activity within its ownership (which may relate to the whole or part of a Building Plot as the case may be) causing the vitiation of any of the foregoing insurances or the increase in any premium or premiums payable therefor or thereunder the Developer responsible shall meet the amount of any shortfall between insurance monies received by the Promoter and the cost of reinstatement of the relevant part of the Quay Walls and, without prejudice to the foregoing, also the amount of any increase in insurance premiums. 8. No right of common property/ownership created Notwithstanding any term or provision of this Deed but without prejudice to the rights of use of the Public Realm Area constituted pursuant to Clause 4.2 it is hereby expressly declared that the Public Realm Area is and shall remain the sole and exclusive property of the Promoter. 9. Successor Without prejudice to clause 4.4 the Forth Ports and the Promoter for their respective interests in the Estate shall have the unfettered right to sell, convey or otherwise dispose of the whole or any material part of the Public Realm Area (a) at any time after the date hereof to Associate Company and/or (b) at any time after the Public Realm Works or the last Phase thereof have been completed to a Successor subject always to the whole provisions of These Presents; 9.1.2 For the foregoing purpose (a) a "Successor" a limited liability company or company limited

by guarantee or any unincorporated body or association whose membership comprises or includes Proprietors' Representatives as well as Developers (if any) owning Residential Units which have been Completed but not Sold and the Promoter and (b) until the time when the all Building Plots to be sold by the Promoter to Developers have been sold and Developed the articles of association or other constitutional document to be adopted by the Successor shall provide that the Promoter or the Manager on its behalf will be entitled to exercise a casting vote or majority vote in relation to any decision by the Successor in relation to the admission of shareholders or members of the Successor or the appointment of board members or other officers the appointment of auditors or professional advisers and/or the incurring of items of material expenditure.

10. Application of Burdens

10.1 The whole conditions, provisions, obligations, stipulations, reservations, rights, burdens, conditions and others constituted or otherwise expressed in this Deed are hereby created real burdens and conditions on and affecting the following parts of the Estate (a) the whole Estate in respect of the rights granted under and pursuant to clause 2.1 and the obligations constituted by clause 8, clause 9, this clause 10, clause 11, clause 12, clause 13 and clause 14; (b) the Residential Land in respect of the reservations constituted by clause 3.1 and (so far as applicable to the Residential Land) clause 3.2; (c) the Public Realm Area in respect of the restrictions and conditions constituted by clause 4.1, clause 4.2 and clause 4.3; (d) the Residential Land and the individual Building Plots and Residential Units from time to time comprising therein the Commercial Units and the Commercial Units (Public Realm) in respect of the obligations to pay a Service Charge Share and the whole other obligations constituted by clause 7 and its relevant sub-clauses; (e) the Residential Land and the Public Realm Area as the case may be in respect of the whole other burdens, conditions, restrictions and others constituted by this Deed;

10.2 If and to the foregoing extent such burdens, conditions and others affect a part of the Estate in accordance with clause 10.1 the foregoing real burdens shall be binding upon Developers Commercial Proprietors and Proprietors and the Promoter to that extent and their respective successors and assignees in all time coming and shall be inserted or validly referred to in all conveyances and instruments of or affecting the Building Plots, the Commercial Land Residential Units and the Public Realm Area as the case may be or any part thereof if and to the extent the same are so affected.

11. Proprietors' Representatives

11.1 The Developer of each Building Plot that is Developed shall use all reasonable endeavours to procure that in terms of the title to each Residential Unit therein there is constituted a title condition requiring the Proprietors to appoint a managing agent or other sole representative ("Proprietors' Representatives") of all the Proprietors in that Building Plot from time to time to whom such Proprietors shall delegate with the power (inter alia);

11.1.1 to liaise with the Promoter in relation to major decisions concerning the provision of Services or items of material expenditure otherwise affecting the Public Realm Area;

11.1.2 to approve the Service Charge Estimate and Service Charge Statement;

11.2 In the event of the Promoter selling, conveying or disposing of the Public Realm Area or any material part thereof to a Successor the Proprietors shall use all reasonable endeavours to procure that the Proprietors' Representative accept membership of the Successor on such terms as may be offered by the Promoter.

12. Permitted Variations to this Deed

12.1 Subject to the proviso in clause 12.2 below and without prejudice to the whole terms and conditions of this Deed the Promoter shall be entitled at any time and from time to time to grant and record with the prior approval of Developers who are at or in respect of that time owners of Building Plots or of Residential Units which are not Sold and of all Commercial Proprietors and Proprietors any Supplemental Deed or other deed to record such variations ("Variations") as are necessary or appropriate (a) To clarify or to give better commercial or legal effect or purpose to the provisions of this Deed and/or (b) To restate or amend or extend the provisions of this Deed to the effect that such provisions and the obligations imposed by this; (c) The approval of any such Developer Commercial Proprietor or Proprietor to any such variation shall not be unreasonably withheld; Provided always that no such approval will be requisite in relation to any Variation to this Deed which does not burden the Commercial Land or the Residential Land and/or which will apply to in an equitable

manner for the benefit of the generality of Developers Proprietors and Commercial Proprietors and the Promoter. 13. Construction Traffic Each Developer in relation to each Building Plot and the Promoter and/or each Commercial Proprietor in relation to the Commercial Land and the Public Realm Land to the extent that the Promoter itself and/or a Commercial Proprietor is carrying out construction works thereon shall in relation to construction and other works being carried out from time to time be bound 13.1.1 to procure that such works are carried out in a manner which will cause as little inconvenience and disruption to the Promoter, other Developers, Commercial Proprietors and Proprietors as shall be reasonably practicable; 13.1.2 to make good any damage caused to the Common Roads and Services and other access ways, ramps, paths, pavements, parking areas, lanes, driveways and landscaped areas within the Estate caused by the construction; 13.2 to remove all mud and other substances from the Common Roads and Services and such other access ways and others deposited by said construction traffic; and the Promoter (either acting itself or through the Manager) shall have the power to raise proceedings on behalf of the Proprietors to ensure compliance by any Developer or Commercial Proprietor with its obligations set forth in this clause 13. 14. Disputes Resolution 14.1 Except where this Deed otherwise specifies all questions, disputes or differences which may arise between the Promoter, any Developer Commercial Proprietor or Proprietor and/or a Successor or any of them arising directly or indirectly from the provisions of this Deed or generally in relation to the Public Realm Area shall be referred to the decision of a Surveyor, experienced in the management of developments in Scotland similar to the Public Realm Area as arbiter (hereinafter referred to as "the Arbiter") who shall be appointed, failing agreement between the parties as to the identity of such Surveyor at the request of either party by the Chairman or Senior Officer for the time being of the Scottish Branch of the Royal Institution of Chartered Surveyors; 14.2 The Arbiter may appoint an assessor and may order the execution of any works of a kind specified by this Deed and allocate the expenses of works in accordance with the provisions of this Deed and may make an award of the costs of the reference and discern accordingly; 14.3 The decision of the Arbiter in accordance with the provisions of this Deed shall be final and binding upon the parties to the question, dispute or difference and upon the Promoter and/or a Successor, Developers, Commercial Proprietors and all the Proprietors. Note: The said Supplementary Plans to the Title Plan are copies of Plans 1 and 2 annexed to the above Deed of Conditions.

**Entry  
Number**

**Burden Detail**

3 Disposition by Forth Ports plc (hereinafter referred to as "Ports") and Forth Property Developments Limited (hereinafter referred to as "the Sellers") to FM Homes Limited and their successors and assignees (hereinafter referred to as the "Purchasers"), registered 19 Jan. 2007, of the part registered under Title Number MID100315 (hereinafter referred to as "the Subjects"), forming the western portion of Plot A1 edged in blue on the Title Plan (which area edged blue on the Title Plan is hereinafter referred to as the "Whole Site"), which subjects are constituted as "the burdened property" in relation to the aftermentioned real burden, forming part of Leith Docks, Edinburgh registered under Title Number MID30200, of which the subjects in this Title form part, which subjects are constituted as "the benefited property" in relation to the aftermentioned reservations and the following real burden, contains the following servitudes and real burden: DECLARING THAT THERE IS RESERVED to the Sellers and their successors as proprietors from time to time of the remainder of the Whole Site so far as it has not been conveyed by the Sellers pursuant to the Missives dated 16 and 17 Dec. 2004 entered into between the Sellers and FM Homes Limited ("the Remaining Phase") (i) the heritable and irredeemable servitude right to construct and thereafter use and maintain for all normal and reasonable purposes in connection with the development occupation and use of the Remaining Phase as a residential development with associated car parking and other uses, the access ramps and basement car parking to be created on the Subjects and (ii) all other reasonable and necessary servitude rights of pedestrian and vehicular access and others over the roadways, pavements and

walkways to be constructed on the Subjects for the benefit of the Remaining Phase; DECLARING THAT there is hereby specifically reserved to the Sellers and to Ports all necessary rights of access for pedestrians and all necessary vehicles for the purposes of maintaining renewing inspecting repairing and replacing the breakwater on or toward the north west of the Subjects and all adjacent areas thereto upon which the breakwater relies for support under declaration that the aforesaid rights will be exercised by the Sellers and Ports and others authorised by them after giving reasonable prior notice to the Purchasers (except in case of emergency) and in such a manner that (1) will not constitute a danger to Health and Safety; (2) shall not interfere (except temporarily) with the development works to be carried out by the Purchasers on the Whole Site or the design or layout of the Purchasers' said proposed development and (3) the Sellers shall repair any damage caused to the Subjects to the reasonable satisfaction of the Purchasers; and under the following additional real burden, namely that the Purchasers shall use the Subjects in all time coming only for the purposes of development, construction and maintenance thereon of residential housing and for all ancillary purposes and for no other purpose whatsoever without the prior written consent of us the Sellers and our successors as proprietors of the Estate.

**Entry  
Number**

**Burden Detail**

4 Disposition by Forth Ports plc (hereinafter referred to as "Ports") and Forth Property Developments Limited (hereinafter referred to as "the Sellers") to FM Homes Limited and their successors and assignees (hereinafter referred to as the "Purchasers"), registered 24 Jan. 2008, of the subjects in this Title (hereinafter referred to as "the Subjects"), forming the eastern portion of Plot A1 edged in blue on the Title Plan (which area edged blue on the Title Plan is hereinafter referred to as the "Whole Site"), which subjects are constituted as "the benefited property" in relation to the aftermentioned servitude rights and "the burdened property" in relation to the aftermentioned real burden, forming part of Leith Docks, Edinburgh registered under Title Number MID30200, which subjects are constituted as "the benefited property" in relation to the aftermentioned reservations and the following real burden and "the burdened property" in relation to the aftermentioned servitudes in favour of the Purchasers, contains the following real burden and servitudes, (One) a heritable and irredeemable servitude right of access and egress for pedestrian and vehicular traffic over those roads and footpaths constructed or to be constructed and identified variously as "Boundary Road", "Newhaven Road North", "Forth Mews" and "North Park Road" and over the road, footpath and parking spaces tinted blue on the Title Plan; (Two) a heritable and irredeemable servitude right of access and egress for pedestrian and vehicular traffic over the road constructed or to be constructed by the Sellers leading from Newhaven Road North to the publicly adopted road at Lindsay Road, Newhaven, Edinburgh and (Three) a heritable and irredeemable servitude right to connect to and use all foul and surface water drains conduits, main supply pipes, cables and other service media lying in the said roads identified respectively as "Boundary Road" and North Park Road"; DECLARING THAT there is hereby specifically reserved to the Sellers and to Ports all necessary rights of access for pedestrians and all necessary vehicles for the purposes of maintaining renewing inspecting repairing and replacing the breakwater on or toward the north west of the Subjects and all adjacent areas thereto upon which the breakwater relies for support under declaration that the aforesaid rights will be exercised by the Sellers and Ports and others authorised by them after giving reasonable prior notice to the Purchasers (except in case of emergency) and in such a manner that (1) will not constitute a danger to Health and Safety; (2) shall not interfere (except temporarily) with the development works to be carried out by the Purchasers on the Whole Site or the design or layout of the Purchasers' said proposed development and (3) the Sellers shall repair any damage caused to the Subjects to the reasonable satisfaction of the Purchasers; And under the following additional real burden, namely that the Purchasers shall use the Subjects in all time coming only for the purposes of development, construction and maintenance thereon of residential housing and for



all ancillary purposes and for no other purpose whatsoever without the prior written consent of us the Sellers and our successors as proprietors of the Estate.

**Entry  
Number**

**Burden Detail**

5 Explanatory Note: The descriptions of the burdened and benefited properties in any deed registered in terms of section 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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