

DEED OF SERVITUDE AND REAL BURDENS

by

[Insert 1st Party Name]

in favour of

SCOTTISH WATER

[with the consent of []]

[date]

Property: []

**SCOTTISH WATER
Castle House
6 Castle Drive
Carnegie Campus
Dunfermline
KY11 8GG**

LP-4, DUNFERMLINE 2

Ref: []

DEED OF SERVITUDE AND REAL BURDENS

by

[**LIMITED**, incorporated under the Companies Acts (Company Number)

and having its Registered Office at] [[], residing at []] (the "**Burdened Owner**")

in favour of

SCOTTISH WATER, established under the Water Industry (Scotland) Act 2002 and having its Principal Office at Castle House, 6 Castle Drive, Carnegie Campus, Dunfermline, Fife KY11 8GG (the "**Benefited Owner**")

[with consent of

LIMITED, incorporated under the Companies Acts (Company Number)]

and having its Registered Office at (the "**Consentor**")]

1. Definitions and Interpretation

1.1 Definitions

In this Deed:-

"**Benefited Property**" means ALL and WHOLE [] [and the whole assets and undertaking of the Benefited Owner and their successors whomsoever as statutory water and sewerage authority];

"**Burdened Property**" means ALL and WHOLE ;

"**Pipe**" means a pipe or pipes laid for the purpose of [giving a supply of water] [providing a conduit for sewerage] and includes any works, apparatus [, manholes] and accessories used in connection with such a pipe [and the supply of water] [and the provision of sewerage];

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

"**Schedule**" means the schedule annexed to this Deed of Servitude;

"**Servitude Area**" means that area [or strip] of ground [metres or thereby in length and having an average width of metres or thereby,] [extending to square metres or thereby,] all as shown delineated [] and coloured [colour] on the plan annexed and signed as relative hereto and 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; [and]

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

1.2 Interpretation

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

- 1.2.1 words importing any gender include all other genders;
- 1.2.2 words importing the singular number only include the plural number and vice versa;
- 1.2.3 where at any one time there are two or more persons included in the expression "Benefited Owner" or "Burdened Owner" [or "Consentor"] obligations contained in this Deed which are expressed to be made by the party denoted by the expression in question are binding jointly and severally on them and their respective executors and representatives whomsoever without the necessity of discussing them in their order.
- 1.2.4 words importing individuals include legal persons and vice versa;
- 1.2.5 references to this Deed or to any other document are to be construed as reference to this Deed or to that other document as modified, amended, varied, supplemented, assigned, novated or replaced from time to time;
- 1.2.6 any reference to a Clause, Schedule or Part of the Schedule is to the relevant Clause, Schedule or part of the Schedule of or to this Deed;
- 1.2.7 any phrase introduced by the words "including", "include", "in particular" or any similar expression is to be construed as illustrative only and is not to be construed as limiting the generality of any preceding words; and
- 1.2.8 any rights reserved to the Benefited Owner are exercisable by the tenants, agents, employees, contractors, sub-contractors 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 constructing this Deed.

1.4 Schedule

The Schedule forms part of this Deed.

2. Grant of servitude

[IN CONSIDERATION of the sum of POUNDS (£) STERLING paid to the Burdened Owner by the Benefited Owner, t][T]he Burdened Owner [with the consent of the Consentor for its interest in the Burdened Property] grants the Servitude Rights but subject always to the Servitude Conditions (if any).

3. **Consent to Real Burdens**

3.1 The Burdened Owner consents to the imposition of the Real Burdens on the Burdened Property.

3.2 The Benefited Owner has the right to the Real Burdens.

4. **Date of Commencement of Servitude**

The Servitude Rights granted by this Deed will be exercisable with effect from [] notwithstanding the dates hereof.

5. **Costs**

The Burdened Owner will pay on demand the reasonable legal and surveyors' costs necessarily incurred by the Benefited Owner in connection with the negotiation and completion of this Deed, together with all disbursements incurred by the Burdened Owner and [all irrecoverable] Value Added Tax on such of the foregoing costs and other items as bear it. Such costs and others will include all (if any) stamp duty land tax payable.

6. **Warrandice**

The Burdened Owner grants warrandice.

7. **No 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] [recording of this Deed in the General Register of Sasines]: IN WITNESS WHEREOF

This is the Schedule referred to in the foregoing Deed of Servitude and Real Burdens by
in favour of Scottish Water with the consent of

Part 1

The Servitude Rights

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

1. A servitude right of access and egress at all times for pedestrians and vehicles (including heavy vehicles) over and across the Burdened Property for the purpose of exercising the servitude rights specified in paragraphs 2, 3 and 4 of this Part 1 of the Schedule, including for the avoidance of doubt the transportation of materials, machinery and equipment, [subject to giving the owner for the time being of the Burdened Property at least one day's written notice (except in emergency where no notice shall be required) .
2. A servitude right to lay, construct and retain a Pipe [not exceeding [] in width] in, on or under the Servitude Area and thereafter to use, operate, inspect, maintain, repair, alter, enlarge, upgrade, renew, replace, remove or render unusable the Pipe.
3. A servitude right to erect and maintain notices indicating the position of underground works, apparatus and accessories used in connection with the Pipe [and the supply of water] [and the provision of sewerage] in, on, under or over the Burdened Property.
4. A servitude right to lay, construct and retain cables and other conduits for the supply and transmission of power and for telecommunications and other service media required by the owner for the time being of the Benefited Property for all purposes in, on, under or over the Burdened Property and thereafter use, operate, inspect, maintain, repair, alter, enlarge, upgrade, renew, replace, remove or render unusable the said cables, other conduits and other service media.

[OR SPECIFY OTHER SERVITUDES]

Part 2
The Servitude Conditions

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

1. The owner for the time being of the Benefited Property will:-
 - 1.1 make good on demand all damage caused to the Servitude Area by reason of the exercise of the Servitude Rights by the owner for the time being of the Benefited Property or their tenants, agents, employees, contractors, sub-contractors and others authorised by them from time to time, to the reasonable satisfaction of the owner for the time being of the Burdened Property;
 - 1.2 procure that the Servitude Rights are exercised so as to cause the minimum disturbance, nuisance, or annoyance reasonably practicable to the owner for the time being of the Burdened Property and their tenants or occupiers, and all other adjoining or neighbouring proprietors, tenants or occupiers; and
 - 1.3 be responsible for a share of the future maintenance of the Servitude Area on an according to user basis OR be solely responsible for the future maintenance of the Servitude Area. **

Part 3
Real Burdens

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

1. The owner for the time being of the Burdened Property shall not erect any building or other erection or carry out any development or construction work or plant, grow, cultivate or permit to grow any trees, shrubs, bushes or other plants and vegetation (1) over the Servitude Area or within a lateral distance of 12 metres measuring from the centre line thereof or (2) which otherwise is likely adversely to affect the Servitude Area or the access of the owner for the time being of the Benefited Property thereto and to the Benefited Property without the prior written consent of the owner for the time being of the Benefited Property[, which consent will not be unreasonably withheld] and the owner for the time being of the Benefited Property shall be entitled to lop, cut or remove the whole or any part of any trees, shrubs, bushes, other plants and vegetation or remove any building obstructing or causing interference or likely to obstruct or cause interference to the Servitude Area and/or the Benefited Property all without any liability and/or damages attaching to the owner for the time being of the Benefited Property.
2. The owner for the time being of the Burdened Property shall not alter the existing ground levels along the Servitude Area or obstruct in any way the access of the owner for the time being of the Benefited Property to same without the prior written consent of the owner for the time being of the Benefited Property.
3. The owner for the time being of the Burdened Property will grant (and specifically will not oppose) a wayleave or wayleaves for any electricity supply, telecommunication or other communication cables, pipes or service media to the owner for the time being of the Benefited Property if such a supply is required by the owner for the time being of the Benefited Property and the owner for the time being of the Burdened Property will agree to such conditions as the provider of such electricity or other supply may require, including the signing of any appropriate wayleave agreement in the electricity or other provider's standard form.