

DISPOSITION FOR REGISTERED OR UNREGISTERED PROPERTY WITH NEW REAL BURDENS AND SERVITUDES (UNILATERAL OR RECIPROCAL)



Multi-option

DISPOSITION

by

[] **LIMITED**

in favour of

[] **LIMITED**

Property: []

Version 2
July 2018



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DISPOSITION (creating reciprocal real burdens and servitudes)

1. Definitions

In this disposition:

["Benefited Property"] means ALL and WHOLE []¹;

["Burden Writs"] means

(a) []²;

(b) []³; and

(c) []⁴;

"Date of Entry" means [] 20[];

["Larger Property"] means the subjects [described in and disposed by [Disposition] by [] in favour of [] dated [] and recorded in the Division of the General Register of Sasines for the County of [] on [];] [registered in the Land Register of Scotland under Title Number []];]

["Leases"] means []⁵ [the leases listed in Part [] of the Schedule];

"New Burdens" means the real burdens imposed on the Property set out in Part 2 of the Schedule;

"New Servitudes" means the servitudes benefiting the Property set out in Part 3 of the Schedule;

["Plan"] means the plan of the Property annexed and signed as relative to this disposition;]

"Price" means [] POUNDS (£[]) Sterling [on which sum no Value Added Tax is payable] [exclusive of Value Added Tax which will be payable in addition];

["Property"] means ALL and WHOLE the property known as []⁶ [being the subjects described in and disposed by [Disposition] by [] in favour of [] dated [] and recorded in the Division of the General Register of Sasines for the County of [] [] [being the subjects registered in the Land Register of Scotland under Title Number []]] [and shown [] on the Plan] [and forming part and portion of the Larger Property]; TOGETHER WITH (One) the parts, privileges and pertinents; and (Two) the Seller's whole right, title and interest present and future in and to the property disposed;

["Purchaser"] means [] LIMITED, incorporated under the Companies Acts (Registered Number []) and having its Registered Office at [];

["Retained Burdens"] means the real burdens imposed on the [Retained] [Benefited] Property set out in Part 4 of the Schedule;]

["Retained Property"] means the Larger Property under exception of [(a) the subjects described in and disposed by the Split Off Writs and (b)] the Property;]

¹ Insert conveyancing description or Title Number of the benefited property.

² Specify Seller's descriptive writ/foundation writ/links in title if they contain title conditions that affect the Property/part.

³ Specify any prior burden writs mentioned in the Seller's prescriptive progress/descriptive writ if they affect the Property/part.

⁴ Specify any burden writs mentioned in Legal Report and any other burden writs known if they affect the Property/part.

⁵ List the occupational leases affecting the Property.

⁶ Insert full conveyancing description of property from prior writs or the conveyancing description of property being sold by reference to a plan (e.g. that area or piece of ground extending to [] hectares or thereby and bounded as follows: []).

["Retained Servitudes"] means the servitudes benefiting the [Retained][Benefited] Property set out in Part 5 of the Schedule;]

"Schedule" means the schedule annexed and signed as relative to this disposition;

"Seller" means [] LIMITED, incorporated under the Companies Acts (Registered Number []) and having its Registered Office at [];

"Servitude Writs" means []⁷;

["Split off Writs"] means []⁸.]

2. **Consideration**

2.1 The Seller is the proprietor of the Property [and] [the Benefited Property] [and the Retained Property].

2.2 The Seller has sold the Property to the Purchaser for the Price.

2.3 The Seller acknowledges receipt of the Price.

3. **Disposition**

3.1 The Seller DISPONES the Property to the Purchaser.

3.2 The Schedule forms part of this disposition and will have effect as if set out in full in the body of this disposition.

3.3 [The Property is disposed with the benefit of the servitudes contained in the Servitude Writs.]

3.4 [The Property is disposed with the benefit of the New Servitudes.]

3.5 [The Property is disposed with the benefit of the Retained Burdens.]

3.6 [The Property is disposed under burden of the Retained Servitudes.]

4. **Burdens**

4.1 The Property is disposed WITH AND UNDER so far as valid, subsisting and applicable the burdens, servitudes, conditions and encumbrances contained in the Burden Writs.

4.2 The Property is disposed WITH AND UNDER the New Burdens.

4.3 [The Seller nominates the Property and the Retained Property each to be a benefited property in respect of []⁹.]¹⁰

[The Seller nominates the Property to be the benefited property in respect of []¹¹ and the Retained Property is to cease to be a benefited property in relation to the burden(s) specified.]¹²

⁷ Identify and list any existing deeds containing servitudes that benefit the Property – note they may also be Burden Writs.

⁸ Identify and list all split offs from the Larger Property.

⁹ Specify burden(s) by reference to the constitutive deed, where it is registered and the date of registration, and if necessary, identify the real burdens.

¹⁰ Use this wording where both properties are to benefit from existing burdens that benefit the Larger Property.

¹¹ Specify burden(s) by reference to the constitutive deed, where it is registered and the date of registration, and if necessary, identify the real burdens.

¹² Use this wording where only the Property is to benefit from existing burdens that benefit the Larger Property.

5. **Retained Burdens**

The [Benefited] [Retained] Property is burdened with the Retained Burdens.

6. **Community interests**

[The Seller declares that the transfer effected by this disposition is excluded from the operation of sections 40(1) and 37(8) of the Land Reform (Scotland) Act 2003 by virtue of section 39(5) of that Act.]¹³

[The Seller declares that the transfer effected by this disposition is excluded from the operation of section 40(1) of the Land Reform (Scotland) Act 2003 by virtue of paragraph []¹⁴ of section 40(4) of that Act.] [The Seller further declares that the transfer effected by this disposition does not form part of a scheme or arrangement and is not one of a series of transfers mentioned in section 43(1) of that Act.]¹⁵¹⁶

[The Seller declares that the transfer effected by this disposition is excluded from the operation of Regulation 12 of the Community Right to Buy (Abandoned, Neglected or Detrimental Land) (Eligible Land, Regulators and Restrictions on Transfers and Dealing) (Scotland) Regulations 2018 by virtue of Regulation 13 [insert relevant sub-paragraph] of the 2018 Regulations; *If, but only if, the exempting paragraph is (a) (gift), (d) (group company transfer), or (g) (partnership or trust transfer) insert the following:* The Seller further declares that the transfer effected by this disposition is not negated by Regulation 13(2) of the 2018 Regulations.]¹⁷

7. **No Lands Tribunal Application**

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(s) [2] and [4] of the Schedule] [and] [the servitudes set out in Parts [3] and [5] of the Schedule] for a period of [five years] after the registration of this disposition in the Land Register of Scotland.

8. **Trust Clause**

8.1 Considering that the Seller has sold the Property to the Purchaser and has received payment of the whole Price in exchange for delivery of this disposition the Seller declares that the Property is held in trust for the Purchaser by it until the date of registration of this disposition (or of any substitute disposition, mutatis mutandis, required to register the Purchaser's title to the Property) in the Land Register of Scotland but solely for the purposes of holding title to the Property and of procuring registration of the Purchaser's title to the Property.

8.2 From the Date of Entry the Seller will be under no duty to maintain, preserve and insure the Property.

8.3 The Seller will co-operate with the Purchaser to procure registration of the Purchaser's title to the Property in the Land Register of Scotland.

8.4 The Seller undertakes promptly to execute and deliver (or join with the Purchaser in so doing) all such forms, plans or other documents as the Purchaser may reasonably require to

¹³ Use this wording where missives have been concluded prior to receipt by Scottish Ministers of an application to register an interest in the Property or any part of it by a community body under part 2 of the 2003 Act.

¹⁴ Insert appropriate paragraph number.

¹⁵ Insert if but only if, the exempting paragraph is (a), (e) or (h)

¹⁶ Use this wording where the transfer of the Property is exempt from the effect of section 40(1) in Part 2 of the 2003 Act by virtue of being an exempt transfer.

¹⁷ Use this wording where the Property or part of it is subject to an application by a community body to purchase abandoned, neglected or detrimental land under Part 3A of the 2003 Act, but the missives, which this Disposition implements, were concluded before the community body's pending application appeared on the Register of Applications by Community Bodies to Buy Land.

procure registration of the Purchaser's title and the Purchaser must reimburse the Seller, on demand, the Seller's reasonable costs in doing so.

9. Importing Deed of Conditions

[There are imported the terms of the title conditions specified in Deed of Conditions by [] dated [] and [recorded in the Division of the General Register of Sasines for the County of [] on []]] [registered in the Land Register of Scotland under Title Number [] on [].]¹⁸

10. Entry

The Property is sold WITH ENTRY and VACANT POSSESSION [subject to and with the benefit of the Leases] on the Date of Entry.

11. Warrantice

The Seller grants warrantice [subject to and with the benefit of the Leases]: IN WITNESS WHEREOF this disposition [consisting of [] pages] [together with the Plan [and] Schedule] annexed is executed by the Seller as follows:¹⁹

¹⁸ Use this wording where the title is affected by a Deed of Conditions created prior to 28 November 2004 in which the terms of section 17 of the Land Registration (Scotland) Act 1979 were excluded, which is to apply to the Property.

¹⁹ Insert signing block if appropriate.

Schedule

This is the Schedule referred to in the disposition by [] in favour of []

Part 1
Interpretation

In this Schedule:

[]²⁰

²⁰ Insert any definitions required eg "Permitted Use", "Service Media" etc.

Part 2
New Burdens
(Real Burdens affecting the Property)

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

- 1.
- 2.

Part 3
New Servitudes
(Servitudes affecting the [Benefited Property] [Retained Property])

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

- 1.
- 2.

Part 4
Retained Burdens
(Real Burdens affecting the [Benefited Property][Retained Property])

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

- 1.
- 2.

Part 5
Retained Servitudes
(Servitudes affecting the Property)

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

- 1.
- 2.