
Dated: 2020

- (1) [Buyer or Estate agent]
- (2) [Seller]
- (3) [owner or sellers mortgagee]
- (4) Thames Water Utilities Limited

Deed of Easement

[Property address]

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BETWEEN

- (1) [seller or adjoining land owner] (company number [seller or adjoining land owner company number]), whose registered office is at [seller or adjoining land owner address] and who is the owner of the land that is affected by the Protected Strip (defined below) and is registered under Title Number [title number of land or adjoining land] (the "Grantor"); and
- (2) Thames Water Utilities Limited (company number 02366661) whose registered office is at Clearwater Court, Vastern Road, Reading RG1 8DB and its successors in title (the "Undertaker").

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

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

- "Apparatus"** the foul and/or surface water Sewers Lateral Drains and any accessories thereto as defined by Section 219 of the Water Industry Act 1991 as are within the Protected Strip (defined below)
- "Protected Strip"** that strip of land shown on the plan (being the plan annexed to the Deed) and thereon coloured yellow and being at least 6.00 metres wide and unless the contrary shall be stipulated or be clear from the Drawings the Protected Strip shall lie one half to each side of the centreline of the Apparatus
- "Dominant Tenement"** the undertaking of the Undertaker within its area as particularised in the Undertaker's Instrument of Appointment as a Sewerage Undertaker and taking effect under the Water Act 1989 and the properties and rights forming part thereof.

2. RIGHTS

Subject to the Undertaker making good so far as is reasonably practicable or paying proper compensation for any damage not made good and to the Undertaker indemnifying the Grantor from and against all rates taxes impositions and outgoings of an annual or recurring nature claims demands proceedings damages losses costs charges and expenses arising out of the exercise of the Rights the Grantor hereby grants with full title guarantee the following perpetual rights ("the Rights") to the Undertaker for the benefit of the Dominant Tenement and each and every part thereof:

- 2.1 the right of having retaining using inspecting the condition of reconstructing replacing relaying altering enlarging maintaining cleansing repairing conducting and managing the Apparatus in through under over or upon the Protected Strip (being the servient tenement) together with the right of having and enjoying the free flow and passage of water with or without other matter of any kind whatsoever through and by means of the Apparatus as existing from time to time in through under over or upon the Protected Strip and to discharge from the Apparatus into any canal pond lake or watercourse (as defined in Section 219(1) of the Water Industry Act 1991) within or adjacent to the Protected Strip in compliance with the terms of any statutory consent granted in relation thereto and to increase or decrease such discharge and for such discharge to flow along and within the said canal pond lake or watercourse and the right at any time to take samples of such discharge;

- 2.2 for the purposes hereof and in particular for the purposes mentioned in **clause 2.1** above (and for similar purposes in relation to any connected length of pipes or works incidental thereto) the right at any time and at all times in the day or night-time with or without vehicles plant machinery servants contractors and others and all necessary materials to enter upon and pass and repass along the Protected Strip by a route within the same or by such (if any) other convenient route from a public highway as the Undertaker shall with the approval of the Grantor (which shall not be unreasonably withheld or delayed) from time to time require doing and occasioning no unreasonable damage thereto or to the Grantor's adjoining land;
- 2.3 the right to erecting on or near the Protected Strip and maintaining any necessary markers indicating the Protected Strip or the position of the Apparatus provided the same are not erected in such a position as to unreasonably affect the beneficial use of the Protected Strip;
- 2.4 the right in exercising the Rights to make all necessary excavations and to tip soil on land immediately adjoining such excavations as shall be necessary or desirable in relation to the exercise of the Rights;
- 2.5 the right of fencing or severing off such part of the Protected Strip from the adjoining and adjacent land of the Grantor as shall be necessary and for so long as may be necessary during the exercise of the Rights;
- 2.6 the right of support for the Apparatus from the subjacent and adjacent land and soil including minerals of the Grantor; and
- 2.7 the right to remove all or any trees and shrubs growing in the Protected Strip and any walls hedges and fences thereon.

3. **COVENANTS**

The Grantor to the intent that the burden of this covenant may run with the Protected Strip and so as to bind (so far as practicable) the same into whosoever hands the same may come and every part thereof and to benefit and protect the Apparatus and the Dominant Tenement and each and every part thereof capable of being so benefited or protected but not so as to render the Grantor personally liable for any breach of covenant committed after the Grantor have parted with all interest in the land in respect of which such breach shall occur hereby covenants with the Undertaker to observe and perform the following covenants:

- 3.1 not to use or permit or knowingly suffer to be used the Protected Strip or any adjoining or adjacent land of the Grantor for any purpose that may:
 - 3.1.1 endanger injure or damage the Apparatus or render access thereto more difficult or expensive; or
 - 3.1.2 adversely affect the quality of water or other matter therein or the free flow and passage thereof or means of communication along or through the same;
- 3.2 without prejudice to the generality of the foregoing:
 - 3.2.1 not to erect construct or place any building wall or other structure or erection or any work of any kind whether permanent or temporary over or upon the Protected Strip provided always that this covenant shall not be deemed to prevent the erection of boundary or other fences which are of an easily-removable character;
 - 3.2.2 not to withdraw support from the Apparatus or from the Protected Strip;
 - 3.2.3 not to undertake or cause or permit to be undertaken any piling or percussive Works within the Protected Strip;
 - 3.2.4 not to alter the ground levels within the Protected Strip;

- 3.2.5 not to plant or cause or permit to be planted any trees or shrubs in the Protected Strip; and
 - 3.2.6 not to construct or lay or cause or permit construction or laying of any street road pipe duct or cable across the Apparatus at an angle of less than forty five degrees formed by the Apparatus and the street road pipe duct or cable provided that this prohibition shall not apply to an existing street road pipe duct or cable; and
- 3.3 to advise any tenant for the time being of the Protected Strip of the existence of the Apparatus and of this Deed and its contents insofar as the same relate to the tenant's occupancy and enjoyment of the Protected Strip.
4. **GENERAL**
- 4.1 The Undertaker shall have the benefit of the right to enforce these Rights and Covenants pursuant to The Contracts (Rights of Third Parties) Act 1999.
 - 4.2 Notwithstanding the earlier exercise of the Rights or the earlier enforcement of the Covenants the Apparatus shall not vest in the Undertaker until it has issued a Vesting Declaration vesting the Apparatus in itself pursuant to Section 102 of the Water Industry Act 1991.

This document is executed as a deed and delivered on the date stated at the beginning of this document.

(execution by two directors)

Executed as a Deed by)

[insert name of party])

("the Grantor") acting by:)

Signature of director

Signature of director/secretary

(execution by Common seal)

Executed as a Deed by affixing)

the common seal of)

[insert name of party])

("the Grantor ") in the presence of:)

Signature of director

Signature of director/secretary

(execution by on director witnessed)

Executed as a Deed by)

[insert name of party])

("the Grantor ") acting by

a director in the presence of :)

Signature of director

Witness Signature

Executed as a Deed by affixing)

the common seal of)

THAMES WATER UTILITIES LIMITED)

("the Undertaker") in the presence of:)

Authorised Signatory

Dated:

2020

(3) THAMES WATER UTILITIES LIMITED

(4) [NAME OF GRANTOR]

Deed of grant of easements and covenant

relating to properties known as [ADDRESSES]

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BETWEEN

- (5) **THAMES WATER UTILITIES LIMITED** (registered number 02366661) whose registered office is at Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB ("**Thames Water**"); and
- (6) [NAME OF GRANTOR] [(registered number [COMPANY NUMBER])] whose registered office is at [of] [ADDRESS] (the "**Grantor**").

BACKGROUND

- (A) The Grantor is the owner of the freehold interest in the Property.
- (B) Thames Water is for the purposes of the Water Industry Act 1991 a sewerage and water undertaker and requires the rights contained in this Deed.
- (C) The Grantor has agreed to grant the rights and enter into the covenants in this Deed for the benefit of Thames Water's undertaking.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

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

"Balancing Pond"	the balancing pond situated on the Property in the location shown [edged] [green] on the Plan
"Conditions"	the conditions in Part 2 of Schedule 1
"Covenants"	the covenants in Schedule 2
"Event"	the receipt by the Grantor of any written claim from a third party that is likely to give rise to a claim by the Grantor against Thames Water under paragraph 2 of Part 2 of Schedule 1 and all matters relating to any such claim
"Exits"	the water flow exits located in or near to the Balancing Pond
"Plan"	the plan(s) attached to this Deed [and numbered [PLAN NUMBER(S)]]
"Property"	the land shown [edged] [red] on the Plan, the freehold interest of which is held by the Grantor and is [registered under title number(s) [TITLE NUMBER(S)]] [included in a conveyance dated [DATE] made between (1) [PARTY 1] and (2) [PARTY 2]]
"Rights"	the rights in Part 1 of Schedule 1
"Sewer"	the surface water sewer in, on, over or under the Property in the location marked with a [purple] line between points [A] and [B] on the Plan

“Structure” the surface water outfall sewer structure in, on, over or under the Property in the location [marked] [X] on the Plan

“Undertaking” Thames Water’s undertaking as a sewerage undertaker under the Water Act 1989

1.2 The clause headings do not affect its interpretation.

1.3 Unless otherwise indicated, references to clauses and Schedules and Parts of Schedules are to clauses of and Schedules to and Parts of Schedules to this Deed and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule.

1.4 References to any statute or statutory provision include references to:

1.4.1 all Acts of Parliament and all other legislation having legal effect in the United Kingdom; and

1.4.2 any subsequent statutes directly or indirectly amending, consolidating, extending, replacing or re-enacting that statute and also include any orders, regulations, instruments or other subordinate legislation made under that statute.

1.5 References to the Property include any part of it.

1.6 **“Including”** means **“including, without limitation”**.

1.7 **“Indemnify”** means to indemnify against all actions, claims, demands and proceedings taken or made against the party receiving the benefit of the indemnity and all costs, damages, expenses, liabilities and losses incurred by that party.

1.8 Where two or more people form a party to this Deed, the obligations they undertake may be enforced against them all jointly or against each individually.

1.9 If any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Deed is to be unaffected.

1.10 The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

2. **RIGHTS GRANTED**

The Grantor grants Thames Water the Rights subject to the Conditions for the benefit of the Undertaking.

3. **COVENANTS**

The Grantor covenants with Thames Water for the benefit of the Undertaking to bind the Grantor’s interest in the Property that the owners of the Property will comply with the Covenants.

4. **AGREEMENTS**

Thames Water and the Grantor agree as follows:

4.1 section 62 Law of Property Act 1925 and the rule in *“Wheeldon v Burrows”* do not apply to this Deed and no legal or other rights are granted over the Property by this Deed except for those expressly granted by this Deed;

4.2 [the Sewer and Structure belong to or will belong to Thames Water when they become vested in Thames Water by virtue of a vesting declaration made under Section 102 of the Water Industry Act 1991];

- 4.3 the Rights are in addition and without prejudice to Thames Water's statutory rights and powers;
- 4.4 any of the parties can require any dispute in relation to this Deed to be decided by an independent arbitrator. If the parties do not agree on who should decide any dispute, the arbitrator will be appointed by the President of the Royal Institution of Chartered Surveyors on the application of any of the parties. The arbitration must be conducted in accordance with the Arbitration Act 1996; and
- 4.5 Thames Water will not be liable to pay any compensation as a result of its exercise of the Rights except as required under the provisions of this Deed.
- 4.6 nothing in this Deed shall in any way restrict or derogate from the duties rights or powers of the parties under the Section 104 Agreement in relation to the Sewer or the duty of the Grantor to maintain the Sewer until it shall vest in the Thames Water or from the discretion of Thames Water as to whether the Sewer should or should not at any time be subject of a vesting declaration

5. **LAND REGISTRY APPLICATION**

The Grantor consents to Thames Water's application to HM Land Registry to register this Deed against the title number(s) of the Property.¹

This document is executed as a deed and delivered on the date stated at the beginning of this document.

¹ If the freehold interest is unregistered, this Deed should be registered as a central land charge.

SCHEDULE 1

Rights and Conditions

Part 1 Rights

1. Sewer and Structure

The right at all times to keep, retain, connect into and use the Sewer and the Structure for the passage of surface water.

2. Discharge of surface water

The right at all times:

2.1 to discharge varying amounts of surface water into the Balancing Pond through the Sewer and the Structure

2.2 to retain and to the free flow and passage of surface water through and across the Balancing Pond

2.3 to have the surface water in the Balancing Pond discharge via the Exits into a pipe (if any), canal pond, watercourse or underground strata

3. Entry

The right to enter and remain upon so much as is necessary of the Property on reasonable prior notice (except in case of emergency) with or without plant and equipment to:

3.1 inspect, repair, cleanse, maintain, alter, replace, renew, clean, connect to and sever connections with the Sewer and Structure; and

3.2 take samples from and monitor the water quality of the Balancing Pond and any discharge from the Sewer and the Structure.

Part 2 Conditions

1. Making good

Either:

1.1 making good as soon as reasonably practicable all damage caused to the Property and any buildings on it from time to time by the exercise of the Rights to the reasonable satisfaction of the Grantor; or

1.2 paying reasonable compensation to the Grantor for any damage caused by the exercise of the Rights which is not [capable of being] made good as mentioned in **paragraph 1.1** of this **Part 2**.

2. Indemnity

Indemnifying the Grantor against all:

2.1 actions, claims, demands and proceedings taken or made against the Grantor and all costs, damages, expenses, liabilities and losses incurred by the Grantor as a direct result of the exercise of the Rights; and

2.2 rates, taxes, impositions and outgoings of an annual or recurring nature incurred or imposed as a result of the exercise of the Rights;

subject to the Grantor:

- 2.3 providing Thames Water with written notice of any Event as soon as reasonably practicable;
- 2.4 not settling, compromising or making any admission of liability, agreement or compromise in relation to any Event or matter which may result in an Event without the consent of Thames Water;
- 2.5 providing Thames Water with all information reasonably requested in relation to any claim under this **paragraph 2**;
- 2.6 taking all such actions as Thames Water may reasonably request to dispute, resist, defend, appeal, settle, compromise, remedy or mitigate any Event or matter which may result in an Event;
- 2.7 if requested by Thames Water, allowing Thames Water exclusive conduct of all proceedings in relation to any Event in the name of and on behalf of the Grantor, at the cost of Thames Water; and
- 2.8 taking reasonable steps to mitigate any loss that may result in a claim under this **paragraph 2**.

SCHEDULE 2

Covenants

1. **Damage**

The Grantor must not do, cause or permit to be done in, on, under or over the Property anything which is likely to damage the Sewer or the Structure and to use all reasonable endeavours to prevent any such damage.

2. **Allow exercise of the Rights**

The Grantor must not do, cause or permit to be done in, on, under or over the Property anything which is likely to restrict Thames Water's exercise of the Rights and to use all reasonable endeavours to prevent any such restriction.

3. **Blockages**

The Grantor must not do, cause or permit to be done in, on, under or over the Property anything which is likely to cause a blockage of the Sewer or the Structure or the Exits or restrict the free flow and passage of surface water into the Balancing Pond and through and across the Balancing Pond to the Exits.

4. **Maintenance of free flow of surface water**

To keep the Sewer, Structure and Exits free from blockages and ensure the free flow of surface water through, across and within the Balancing Pond.

5. **Use of the Balancing Pond**

The Grantor must not allow the Balancing Pond to be used other than as a balancing facility for the purposes of the Undertaking.

6. **Indemnity**

The Grantor must indemnify Thames Water in relation to the Grantor failing to comply with its obligations under **paragraphs 1 to 5**.