# CHAPTER clxxxiv.

An Act to authorise the Dundee Gas Commissioners to create and issue Debenture Stock; and for other purposes. A. D. 1882.

[10th August 1882.]

WHEREAS the undertakings of the Dundee Gaslight Company and the Dundee New Gaslight Company and the power of making and supplying gas to Dundee and suburbs, and places adjacent, were vested in the Dundee Gas Commissioners (herein-after called "the Commissioners"), by the Dundee Gas Act, 1868: 31 & 32 Vict. c. xciv.

And whereas the limits of supply specified in the said Act were extended, and additional works authorised and additional powers conferred upon the Commissioners by the Dundee Gas Amendment Act, 1872, and by the Dundee Gas (Additional Powers) Act, 1877: 35 & 36 Vict. c. xvii. 40 & 41 Vict. c. xliii.

And whereas powers were conferred on the Commissioners by the recited Acts to borrow money for the purposes thereof and of their undertaking which powers have to a considerable extent been exercised by the Commissioners:

And whereas it is expedient that the Commissioners should be empowered to create and issue debenture stock in the manner herein-after provided:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty, that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same as follows:

**1.** This Act may be cited for all purposes as the Dundee Gas (Debenture Stock) Act, 1882. Short title.

**2.** The Commissioners may from time to time resolve that any portion of their debt then subsisting may be converted into debenture stock of the Commissioners, to be called Dundee Gas Debenture Power of creating and issuing debenture stock.

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Stock, of like amount, either by agreement with the holders or by paying off the same respectively when due, and issuing stock of a corresponding amount instead of re-borrowing the sums so paid off, and may also from time to time resolve that the whole or any part, to be defined in and by such resolution, of the moneys which the Commissioners shall have authority to raise by borrowing, and which shall not then have been raised, shall or may be raised by the creation and issue of debenture stock under this Act.

Holders of existing debts may by agreement take stock therefor.

**3.** The holder of any mortgage or other document of debt of the Commissioners in force at the commencement of this Act, may agree with the Commissioners to surrender and discharge the same, and to take in exchange debenture stock of equivalent value issued under this Act.

Powers of conversion to trustees, &c.

8 & 9 Vict. c. 19.

**4.** Any person who holds any such mortgage or other document of debt and who is one of the persons enabled by the Lands Clauses Consolidation (Scotland) Act, 1845, section 7, to sell land under that Act, may consent to the conversion of such mortgage or other document of debt into debenture stock, or to the payment of the moneys secured thereby before the time limited for the payment thereof, as if such person were the absolute owner in his own right of such mortgage or other document of debt.

Converted stock subject to same trusts, &c.

**5.** All stock issued under this Act in substitution for or on account of any such mortgage or document of debt, shall be subject and liable to the same trusts, powers, provisions, and declarations, agreements, charges, liens, and encumbrances as immediately before the conversion or payment thereof affected such mortgage or other document of debt, and so as to give effect to and not to annul any testamentary or other disposition of or affecting the same, and every such disposition shall take effect with reference to a proportionate amount of the substituted stock.

Regulations applicable to stock.

**6.** The following provisions shall apply to debenture stock created and issued under the powers of this Act; that is to say:—

(1) The stock shall be issued by the Commissioners in such amounts, in such manner, at such prices and such times, and subject to such conditions not being inconsistent with the provisions of this Act, and being equally applicable to all issues of stock at all times as the Commissioners at or before the creation thereof may from time to time determine, and the stock shall bear such fixed interest, being the same for all issues of stock as the Commissioners by resolution shall fix.

(2) The several holders of the stock shall be creditors of the Commissioners for the payment of the interest due thereon,

and shall be deemed to hold by virtue of this Act a mortgage of the net revenues of the property and works forming the undertaking of the Commissioners, and of the several rates and charges leviable by them under the provisions of the recited Acts and this Act in security of such payment. Provided that nothing contained in or done or suffered under this Act shall prejudice or affect the preference and priority of the perpetual annuities mentioned in the first-recited Act, and conferred by that Act.

(3) The interest shall be payable at the office of the treasurer half yearly on the fifteenth day of May and the eleventh day of November, unless either of such days shall fall on a Sunday or a day observed as a bank holiday, and in any such case on the following day, unless such following day be a Sunday, and then on the following Monday.

(4) The Commissioners shall keep a book to be called the "Register of Holders of Dundee Gas Debenture Stock"; and in such book shall be entered from time to time the names and addresses of the several persons, and the names of the several corporations respectively entitled to stock, together with the amount of the stock to which such holders shall be respectively entitled, and the surnames and corporate names of such holders shall be placed in alphabetical order, and every holder (and if such holder be a corporation, the clerk or agent of such corporation), may at all convenient times peruse such books gratis, and may require a copy thereof or of any part thereof, and for every one hundred words so required to be copied the Commissioners may demand a sum not exceeding one shilling.

(5) The Commissioners shall on demand deliver to each holder of stock a certificate under the hand of their treasurer and two of the Commissioners and sealed with the common seal of the Commissioners, stating the amount of stock held by him and the certificate may be in the form in the First Schedule to this Act annexed or to the like effect, and for such certificate the Commissioners may demand any sum not exceeding two shillings and sixpence.

(6) The certificate of any stock shall be admitted in all courts as primâ facie evidence of the title of the holder thereof to the stock therein specified.

(7) If the certificate of any stock be worn out or damaged, then on its being produced to the Commissioners they may order it to be cancelled, and thereupon they shall issue a similar certifi-

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cate to the person then entitled to the certificate so worn out or damaged, or if such certificate be lost or destroyed, then on proof thereof to the satisfaction of the Commissioners, they shall issue a similar certificate to the person then entitled to the certificate so lost or destroyed, and in either case a due entry of the substituted certificate shall be made by the Commissioners in the register of stock, and for every such substituted certificate the Commissioners may demand any sum not exceeding two shillings and sixpence.

(8) The stock shall be transmissible and transferable as and shall in all other respects have the incidents of personal estate.

(9) The Commissioners shall not be bound to pay the interest on any stock until the person entitled thereto shall have demanded a certificate thereof, and no such interest in arrear and not wrongfully withheld by the Commissioners shall bear interest.

(10) Nothing in this Act contained shall affect any power or duty of the Commissioners to sell, lease, or otherwise dispose of any land or property belonging to them, although the same or the revenue thereof may be charged as security for the stock, or shall affect any power or duty of the Commissioners to apply the moneys arising from any such sale, lease, or disposition in discharge of such liabilities and securities as are a charge on the same in priority to the stock.

(11) Subject as herein-before provided, all moneys received by the Commissioners on the sale of any land or property on which or on the revenues of which the stock is charged, shall be applied in redemption of such stock.

(12) When any land or other property is sold or otherwise disposed of by the Commissioners, the same shall in the hands of any person or body corporate to whom the same shall have been sold or disposed, and his or their heirs, successors, and assignees, be absolutely freed from all claims, charges, or obligations in respect of any stock granted or issued under this Act, and such person or body corporate shall not be bound to see to or inquire into the application by the Commissioners of the money arising from such sale or disposition, or be in any way responsible for the non-application or mis-application thereof.

(13) The Commissioners may from time to time apply all or any moneys standing to the credit of any sinking fund which they are required to set aside in the purchase and redemption of stock, and may by agreement with any stockholder redeem or purchase any portion of the stock. When any portion is so redeemed or purchased an entry of the redemption or purchase

thereof shall be made in the register of stockholders. Whenever such portion is redeemed or purchased by the application or by means of any sinking fund, such redeemed or purchased portion shall be wholly extinguished.

(14) After the conversion of any mortgages or other documents of debt into stock, or after any money shall have been raised by the Commissioners by the issue of stock, it shall not be lawful for the Commissioners to issue mortgages or any other securities for the amount so converted or raised, or again to borrow the same, but the powers of borrowing by the Commissioners shall to that extent be extinguished.

Rules applicable to transfer of stock.

**7.** With respect to the transfer of debenture stock the following provisions shall have effect (that is to say):—

(1) Stock may be transferred in any amount divisible by ten pounds, and every such transfer shall be by deed duly stamped in which the consideration shall be truly stated, and such deed may be according to the form in the Second Schedule to this Act annexed, or to the like effect.

(2) The Commissioners shall keep a book to be called the "Register of Transfers of Dundee Gas Debenture Stock," and every such deed of transfer, when duly executed, shall be delivered to and be kept by the Commissioners, and they shall enter a memorial of every such deed of transfer in such book, and shall endorse such entry on the deed of transfer (such endorsement to be signed by the treasurer), and shall on demand deliver a new certificate to the transferee, and for every such entry of a deed of transfer with such endorsement, and with or without such certificate, may demand any sum not exceeding two shillings and sixpence and on the request of any transferee an endorsement of the transfer to him shall be made on the certificate of the stock transferred instead of a new certificate being granted, and such endorsement being signed by the treasurer shall be considered in every respect the same as a new certificate, and until such deed of transfer be so delivered to the Commissioners, the transferee shall not be entitled to receive any part of the interest on the stock transferred.

(3) The Commissioners may close the register of transfers for any period not exceeding seven days before the fifteenth day of May and eleventh day of November yearly, and any transfer made during the time when that register is closed shall as between the Commissioners and the transferee, but not otherwise, be deemed made after that time.

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(4) If any stock become transmitted in consequence of the death or bankruptcy of any holder thereof, or in consequence of the marriage of a female holder thereof, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration in writing as by this Act provided, and until the transmission be so authenticated any person claiming by virtue thereof shall not be entitled to receive any interest on any part of the stock transmitted.

(5) Every such declaration shall state the manner in which and the party to whom the stock is transmitted, and shall be made and signed by some credible person before a justice of the peace, and such declaration shall be left with the Commissioners, and thereupon they shall enter the name of the person entitled under such transmission in the register of transfers, unless good cause be shown to the contrary, and for every such entry the Commissioners may demand any sum not exceeding five shillings.

(6) If the transmission be by virtue of any testamentary instrument or by intestacy, the probate of the will or the letters of administration duly produced in the commissary or sheriff court and endorsed as required by the law of Scotland or the testament testamentar or the testament dative shall with the declaration be produced to the Commissioners, who shall, upon such production in any one of those cases, make an entry of the declaration in the register of transfers, and for every such entry the Commissioners may demand any sum not exceeding five shillings.

(7) Upon any subdivision of stock by transfer thereof or of any part thereof, the Commissioners may, upon the delivery up to them of the original certificate, grant to the transferees or persons entitled new certificates for the portions of stock to which they are respectively entitled, and for every such certificate the Commissioners may demand any sum not exceeding two shillings and sixpence.

(8) The Commissioners shall not register any transfer except upon the production of the certificate relating to the stock to be transferred, or evidence satisfactory to the Commissioners that the same has been lost or destroyed.

Certificates of stock to bearer.

**8.** Instead of issuing certificates to nominal holders, or in place of any such certificates, the Commissioners may subject to the provisions of this Act with respect to trustees, and to the conditions herein-after mentioned, issue debenture stock certificates to

bearer, that is to say, certificates of title to the stock or any part thereof with coupons annexed to bearer, and entitling the bearers of the coupons to the interest on the stock. A.D. 1882.

Rules applicable to certificates of stock to bearer.

**9.** The following provisions shall apply to certificates of debenture stock to bearer:—

(1) A stock certificate to bearer shall entitle the bearer to the stock therein described, and shall be transferable by delivery.

(2) Where a stock certificate to bearer is outstanding, the stock represented thereby shall cease to be transferable by deed.

(3) The coupons annexed to the certificate to bearer, at the time of issue, shall comprise the interest to be payable in respect of the stock therein described, for not less than five years from the date of the certificate.

(4) On the expiration of that period fresh coupons shall be issued for a further period of not less than five years each during the continuance in force of the stock certificate, but the Commissioners may, if they think fit, in lieu of issuing fresh coupons in respect of a stock certificate to bearer, give in exchange a fresh stock certificate to bearer with coupons annexed.

(5) The payment to the bearer of a coupon of the amount expressed therein, shall be a full discharge to the Commissioners of all liability in respect of that coupon and the interest represented thereby.

(6) A trustee shall not apply for or hold a stock certificate to bearer or coupon, unless authorised to do so by the terms of his trust, and any contravention of this section by a trustee shall be deemed a breach of trust; but this provision shall not impose on the Commissioners any obligation to inquire whether a person taking or applying for a stock certificate to bearer or coupon, is or is not a trustee, or subject the Commissioners to any liability in the event of their issuing a stock certificate to bearer, or coupon to a trustee, or invalidate any stock certificate to bearer or coupon so issued.

(7) If a stock certificate to bearer or coupon be lost or destroyed, the Commissioners shall issue a new stock certificate or coupon on receiving an indemnity to their satisfaction.

(8) Stock described in a stock certificate to bearer, shall be charged on the same securities, and save in so far as such stock certificate is a negotiable instrument, and save as relates to the mode of transfer and payment of interest thereon, shall be subject to the same incidents, and be entitled to the same rights and

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privileges, in all respects as if it had continued entered in the register as stock transferable therein.

(9). On the issue of a stock certificate to bearer, the Commissioners may demand any sum not exceeding two shillings and sixpence on every one hundred pounds of stock included in the certificate, and a proportionate amount for any less sum of stock.

(10) No fee shall be charged on the issue of a stock certificate to bearer in exchange for a like certificate.

(11) The bearer of a certificate to bearer may on delivery of his certificate, and of all unpaid coupons belonging thereto, to the Commissioners, and on compliance with any regulations made under this Act, require the Commissioners to enter him in the register as a holder of the stock described in such stock certificate, and thereupon that stock shall be re-entered on the register, and shall become transferable therein, and the interest thereon shall be payable as if no such stock certificate to bearer had been issued in respect of that stock.

(12) On the re-entry by the Commissioners of the stock included in a stock certificate to bearer, a fee not exceeding five shillings shall be payable to the Commissioners.

(13) The Commissioners may from time to time issue any forms required for carrying into effect the provisions of this section, and may from time to time make reasonable regulations, and alter, vary, or repeal any such regulations relating to the following matters:

(*a*) The time for which coupons are to be given;

(*b*) The mode in which the Commissioners are to act in issuing stock certificates to bearer, or entering in the register the holders of stock certificates to bearer or their nominees;

(*c*) The mode of proving the title of or identifying any person applying for a stock certificate to bearer;

(*d*) The mode of proof of the loss or destruction of a stock certificate to bearer or coupon;

(*e*) Any other matter necessary to carry this section into effect.

Provided that no such regulation shall be inconsistent with this Act, and all such regulations for the time being in force shall be duly observed.

Provision for compositions for stamp duty on stock.

**10.** The expenses from time to time incurred by the Commissioners in payment of composition for stamp duty in respect of stock, shall be deemed to be expenses incurred by the Commissioners for

the several purposes for which the stock, or as the case may be, the mortgages or other documents of debt converted into stock is or shall have been issued, and such expenses may be charged as capital expenses.

Notice of trusts not to be received.

**11.** No notice of any trust, express, implied, or constructive shall be received by the Commissioners, or by any registrar or officer of the Commissioners in relation to any stock whether issued to bearer or otherwise.

Stock issued at premium.

**12.** When any stock is issued at a premium, such premium shall be carried to a separate account, and be applied to the purposes to which the sinking fund is applicable.

Estimates and charges, and contingent guarantee rate.

**13.** The estimate to be made up under section 69 of the first-recited Act, and the charges to be fixed by the Commissioners under that section, shall include the objects and purposes of this Act, and shall not only be sufficient, with the other revenues of the Commissioners, to defray the annual sums and expenditure specified in said section 69 and also in section 19 of the second-recited Act, and section 12 of the third-recited Act, but likewise all other annual expenditure arising out of or consequent on the execution of the purposes of this Act, including the sums by this Act provided to be paid to the sinking fund: and "the gas contingent guarantee rate," leviable by the Commissioners under section 70 of the first recited Act, shall be sufficient to meet any deficiency in the moneys required to pay the said annual sums and expenditure.

Application of rates and charges.

**14.** The rates and charges levied or leviable under the authority of the recited Acts and this Act, or any of them, and the other revenues of the Commissioners shall be applied in the following order of priority; that is to say (first), in defraying the expenses of the management and maintenance of the undertaking of the Commissioners, including the annual costs, charges, and expenses of providing and supplying gas, and the payment of any feu duties or ground annuals exigible in respect of any lands or property forming part of their undertaking; (secondly), in payment of the perpetual annuities by the first-recited Act required to be paid, and of the interest on any moneys which have been or may be borrowed or raised under the authority of that Act and this Act or either of them; (thirdly), in payment of the interest of money which has been or may be borrowed or raised under the authority of the second and third recited Acts, and this Act or any of them; (fourthly), in payment of the sums by the recited Acts, and this Act directed to be set apart as a sinking fund; and (lastly) in payment of such portion of the cost of enlarging or increasing and renewing the

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number of mains and pipes, and of extending works, mains, and pipes, from time to time, as the Commissioners shall think it reasonable to charge against the revenue for the year, and of any other necessary annual expenditure: Provided always, that in the event of the Commissioners paying off the money borrowed under the recited Acts or any part thereof, and raising such money, by means of stock to be created and issued under the authority of this Act, the holders of such stock shall all rank pari passu, and without any preference or priority the one over the other.

Interest on stock recovered by action.

**15.** If the interest on any stock being payable be not paid upon demand thereof in writing made to the Commissioners by the holders thereof, such holders may sue for and recover the same with full costs by ordinary action in any court of competent jurisdiction.

If interest in arrear for two months, judicial factor may be applied for.

**16.** If within two months after the interest on any stock or part thereof has become payable, and after demand thereof in writing, it be not paid, the holder thereof, without prejudice to his right to sue for the amount in arrear in any court of competent jurisdiction, may require the appointment of a judicial factor by an application to be made as in this Act provided.

Application for judicial factor, and his powers.

**17.** Every such application shall be made to either division of the Court of Session, and such division (herein-after called "the Court") may, if it think fit, appoint a judical factor on such terms and conditions, and with such powers as the Court may think necessary, and such judicial factor shall have the power of assessing and raising and recovering the rates and charges that may be liable to the payment of the interest on the stock, as the Commissioners themselves or any officer of theirs might have, and shall apply all moneys received by him after payment of expenses and costs, under the direction of the Court, for the purposes of and in conformity with the provisions of the recited Acts and this Act.

Discharge of judicial factor, &c.

**18.** The Court may at any time discharge such judicial factor, and shall have full jurisdiction over him and over the applicants and all persons interested in his acts.

Authentication of certificates of stock.

**19.** If the certificate of any stock bear the signature of the treasurer and two of the Commissioners, and the common seal of the Commissioners, it shall not be necessary for any person or body to inquire whether the moneys mentioned in the certificate are within the borrowing or other powers of the Commissioners.

Prior holders of annuities and debt not to be prejudiced.

**20.** Nothing in this Act contained shall in any way prejudice or affect the rights, remedies, and priorities of the holders of perpetual annuities or of the holders of mortgages or other documents of debt of the Commissioners created or issued before the first creation or

issue of stock under this Act, nor be deemed to give to the Commissioners the right to convert any such perpetual annuities at any time or any such mortgages or securities existing at the commencement of this Act into stock, or otherwise to disturb or interfere with the same, without the previous consent in writing of the respective holders; nor shall anything in this Act contained be deemed to authorise the Commissioners to pass any resolution for the conversion of any such perpetual annuities, mortgages, or other documents into stock unless the consent in writing of the respective holders has previously been obtained, or unless it be declared in such resolution that such consent shall be obtained prior to such conversion.

Re-borrowing or re-issuing of stock.

**21.** If the Commissioners pay off any debts or securities or purchase or redeem any stock otherwise than by the operation of the sinking fund provided by the recited Acts and this Act, they may, in any manner authorised by the recited Acts or this Act, re-borrow or raise the amount so paid off, and so from time to time.

Joint holders of stock.

**22.** If two or more persons are registered as joint holders of any stock, any one of such persons may give effectual receipts for any interests on such stock, unless notice is given to the contrary to the Commissioners by any other joint holder of such stock.

Interest warrants on stock by post. 39 & 40 Vict. c. 81.

**23.** The Commissioners may from time to time make arrangements for payment of interest on debenture stock by sending warrants through the post, and every warrant so sent shall be deemed a cheque within the meaning assigned to that term in the Crossed Cheques Act, 1876.

Mode of obtaining interest warrants by post.

**24.** Where the holder of any debenture stock desires to have his interest warrants sent to him by post, he shall make a request for that purpose to the Commissioners in writing, signed by him, in a form approved by the Commissioners, and shall give to the Commissioners an address in the United Kingdom or in the Channel Islands or the Isle of Man, to which the letters containing the warrants are from time to time to be sent.

Protection of Commissioners.

**25.** The posting by the Commissioners or their treasurer or clerk of a letter containing an interest warrant addressed to the holder of debenture stock at his request under this Act, at the address given by him to the Commissioners, shall as respects the liability of the Commissioners and their officers be equivalent to the delivery of the warrant to the said holder of the debenture stock himself.

Registers evidence of title.

**26.** The registers of the debenture stock and of the transfers of debenture stock kept under the provisions of this Act shall be primâ facie evidence of all matters therein entered under the provisions of

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this Act, and of the title of persons entered therein as owners of any debenture stock.

Commissioners may arrange with bank for attending to debenture stock matters.

**27.** The Commissioners may from time to time enter into such arrangements with any bank or banking company as they may think fit for carrying into effect the provisions of this Act with reference to the creation and transfer of debenture stock and the management thereof, and the keeping of the registers and any other matters, and for the proper remuneration of the bank with reference thereto.

Power of commissioners to make regulations as to debenture stock matters.

**28.** The Commissioners may from time to time make, alter, and rescind with reference to the transfer of debenture stock, or otherwise in relation to such stock, reasonable regulations not inconsistent with the provisions of this Act. A printed copy of all such regulations shall be entered in the registers, and any such regulations for the time being in force shall be duly observed.

Sinking fund.

**29.** The Commissioners shall, in addition to the sums provided to be set apart annually as a sinking fund by section eighty-five of the first-recited Act, and section twenty-four of the second-recited Act, and section sixteen of the third-recited Act, set apart or pay over annually to the sinking fund thereby provided the sum of one thousand three hundred pounds for the financial year, commencing on the first day of May, one thousand eight hundred and eighty-two, and every year thereafter, and the additional sum of one thousand two hundred and fifty pounds for the financial year commencing on the first day of May, one thousand eight hundred and eighty-three, and every year thereafter, and the additional sum of one thousand two hundred and fifty pounds for the financial year commencing on the first day of May, one thousand eight hundred and eighty-four, and every year thereafter.

Application of sinking fund.

**30.** The sums provided to be set apart annually as a sinking fund by the recited Acts, and this Act, shall be from time to time applicable to the redemption of mortgages granted under the powers of the recited Acts, or to the other purposes specified in section eighty-five of the first-recited Act, or in the purchase and redemption of debenture stock created and issued under this Act, and to no other purposes whatever.

Costs of Act.

**31.** All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Commissioners.

# SCHEDULES.

## FIRST SCHEDULE.

### Form of Certificate of Debenture Stock.

### Dundee Gas Debenture Stock.

Certificate No.

Amount £ : :

Registered No.

This is to certify that of , is registered in the books of the Dundee Gas Commissioners as the proprietor of £ Dundee Gas Debenture Stock created by virtue of the Dundee Gas (Debenture Stock) Act, 1882, bearing interest at the rate of £ per centum per annum, payable half yearly on the fifteenth day of May and the eleventh day of November in each year, the first payment to be made on the day of next.

Given under the hands of the treasurer and two of the Commissioners on behalf of the Commissioners, and sealed with the common seal of the Commissioners, this
day of

× _____

× _____

× _____

Note.—This stock certificate must be deposited with the deed of transfer, whether for the whole or any portion thereof, before a new certificate can be issued in exchange.

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## SECOND SCHEDULE.

FORM OF TRANSFER OF DUNDEE GAS DEBENTURE STOCK.

I, , of , in consideration of the sum of paid to me by , of do hereby transfer to (herein-after called the transferee) the sum of £ Dundee Gas Debenture Stock, with all interest due and to become due thereon, to hold unto the transferee, his executors, administrators, and assigns, subject to the several conditions on which I hold the same at the time of the execution hereof, and I, the transferee, do hereby agree to take the said debenture stock subject to the same conditions.

As witness our hands this day of

×_____

×_____

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