

This is the Schedule of the Sale and Purchase Conditions (comprising five parts) referred to in the foregoing offer of even date to purchase the subjects known as and forming Laurel House, Polmaise Road, Stirling FK7 9JU addressed to Morton Fraser LLP as agents for and on behalf of Protector Number 1 Limited (In Administration) acting through its administrators

Dated .....

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Agents for and on behalf of the Purchaser

## SCHEDULE

### SCHEDULE 1

#### SALE AND PURCHASE CONDITIONS

#### 1 Definitions and Interpretation

1.1 In the Missives:

**"2003 Act"** means the Title Conditions (Scotland) Act 2003;

**"2004 Act"** means the Tenements (Scotland) Act 2004;

**"2012 Act"** means the Land Registration (Scotland) Act 2012;

**"2022 Act"** means the Economic Crime (Transparency and Enforcement) Act 2022;

**"Administrators"** has the meaning ascribed to that term in the Offer, who are appointed to manage the affairs, business and property of the Seller, each acting (except in respect of paragraph 14 (*Administrators*) of this Part of the Schedule as agents of the Seller and without personal liability, and where the context permits, includes the Benefited Persons;

**"Administrator Protections"** means the provisions of paragraphs 13, 14 and 16 of this Part of the Schedule;

**"Advance Notice"** means an advance notice as defined in Section 56 of the 2012 Act;

**"Arrears"** means any arrears of rent and other sums due by the Occupational Tenant under the Occupational Lease as at Completion but which has not been paid to and is not held by (or on behalf of) the Seller acting by the Administrators at Completion as cleared funds;

**"Arrears Collection Period"** means the period of three months from and after Completion;

**"Bank"** means Redwood Bank Limited a company incorporated in England and Wales with registered number 09872265 whose registered office is at Suite 101, The Nexus Building, Broadway, Letchworth Garden City SG6 3TA;

**"Bank Release"** means a discharge in favour of the Seller acting by the Administrators of the Bank Standard Security in terms of the draft set out in SCHEDULE 4 of the Schedule;

**"Bank Standard Security"** means a standard security by the Seller in favour of the Bank over the Property registered in the Land Register of Scotland under Title Number STG19506 on 6 April 2020;

**"Benefited Persons"** means (i) the present and future firm or firms, partners and employees of the Administrators; and (ii) any legal entity, company, LLP or partnership using in its name "FRP" of the Administrators' Firm and the partners, members, shareholders, officers, directors and employers of any such entity, company, LLP or partnership;

**"Completion"** means the Date of Entry or, if later, the date when the Completion Payment is paid and the purchase of the Property is completed in terms of the Missives;

**"Completion Payment"** means the Price subject to all, if any, adjustments provided for in the Missives (including all rent and other apportionments);

**"Conclusion Date"** means the date of conclusion of the Missives;

**"Current Service Charge Year"** means the service charge year in which Completion falls;

**"Date of Entry"** has the meaning ascribed to that term in the Offer or such other date as the Purchaser and the Seller may agree in writing with specific reference to the Missives;

**"Disclosed Documents"** means the documents listed in SCHEDULE 2 of the Schedule;

**"Disposition"** means the disposition of the Property in favour of the Purchaser in terms of the draft set out in SCHEDULE 3 of the Schedule;

**"Encumbrances"** are encumbrances as set out in Section 9 of the 2012 Act;

**"HMRC"** means HM Revenue & Customs;

**"Interest"** means interest on the sum in question at 4% per annum above the base rate from time to time of the Bank of England from the date that such sum is due for payment or, if there is no such date specified, the date of demand for such sum until such sum is paid;

**"Liabilities"** means all and any actions, proceedings, claims and demands against and all debts, costs (including legal costs), losses, charges, damages, expenses, penalties, liabilities (including tax) and obligations whatsoever suffered or incurred and whether matured or not, fixed or contingent, direct or indirect;

**"Measurement Survey Fee"** means the sum of ONE THOUSAND SEVEN HUNDRED AND FOUR POUNDS (inclusive of VAT) incurred by the Seller in connection with the measurement survey of the Property;

**"Managing Agents"** means Ryden LLP or such other firm of managing agents appointed by the Seller acting by the Administrators to manage the Property;

**"Missives"** means the contract constituted by the Offer and all duly executed letters following on it;

**"Offer"** means the foregoing offer to purchase the Property addressed to Morton Fraser LLP as agents for and on behalf of the Seller acting through the Administrators;

**"NOPL"** means any Notice of Potential Liability for Costs registered against the Property under either the 2003 Act or the 2004 Act whether before or after the date hereof;

**"Occupational Lease"** means the lease of the Property between Hazledene House Limited and the Tenants dated 13 and 18 October and registered in the Books of Council and Session on 21 October all dates in the year 2016 as subsequently varied or amended;

**"Occupational Tenant"** means the current tenants (both collectively and individually) under the Occupational Lease;

**"Option to Tax"** means an option to tax the Property for VAT purposes pursuant to Part 1 of Schedule 10 to the VAT Act;

**"Other Income"** means rental income due from the Occupational Tenant for a period covering both before and after Completion but which has not been paid to and is not held by the Seller acting by the Administrators or its agents at Completion;

**"Overseas Entity"** has the meaning given by Section 2 of the 2022 Act;

**"Policy"** means the current policy of insurance for the Property;

**"Price"** has the meaning ascribed to that term in the Offer;

**"Property"** has the meaning ascribed to that term in the Offer;

**"Purchaser"** has the meaning ascribed to that term in the Offer;

**"Purchaser's Bank"** means the bank account of the Purchaser;

**"Purchaser's Claim"** has the meaning ascribed to it in paragraph 16;

**"Purchaser's Solicitors"** means the firm of solicitors who have issued the Offer on behalf of the Purchaser or such other solicitors as the Purchaser may appoint in their place from time to time, who must be regulated by The Law Society of Scotland, and who have been notified in writing to the Seller's Solicitors prior to the Date of Entry;

**"RACBBL"** means the register of applications by community bodies to buy land held by the Keeper of the Registers of Scotland;

**"RCIL"** means the register of community interests in land held by the Keeper of the Registers of Scotland;

**"Received Income"** means rental income actually held by the Seller acting the Administrators or its agents at Completion which has been paid by the Occupational Tenant for a period covering both before and after Completion;

**"Registered Overseas Entity"** means an Overseas Entity that is registered in the ROE;

**"ROE"** means the Register of Overseas Entities established under Section 3 of the 2022 Act;

**"Schedule"** has the meaning ascribed to that term in the Offer;

**"Search Costs"** means the proper and reasonable third party fees and costs incurred by the Seller acting by the Administrators in connection with the provision of a Legal Report, a RCIL and RACBBL Search Report, a Charges Search, a Property Enquiry

Certificate with Roads Adoption Plan, Coal Report and Enviro Search in respect of the Property and the cost of registering an Advance Notice for the Disposition incurred by the Seller in connection with the sale of the Property;

**"Seller"** has the meaning ascribed to that term in the Offer;;

**"Seller's Bank Account"** means the client account of the Seller's Solicitor;

**"Seller's Solicitors"** means Morton Fraser LLP (Ref: JG11/MJR/41633.00059) or such other solicitors as the Seller may appoint in their place from time to time, who must be regulated by The Law Society of Scotland, and who have been notified in writing to the Purchaser's Solicitors prior to the Date of Entry;

**"Title Deeds"** means the print(s) of the ScotLIS Title Information for the Property forming part of the Disclosed Documents;

**"TOGC"** means a transfer of part of a business as a going concern for the purposes of Section 49(1) of the VAT Act and Article 5 of the Value Added Tax (Special Provisions) Order 1995;

**"Transaction Documents"** means the Missives, the Disposition and the Bank Release;

**"VAT"** means Value Added Tax as provided for in the VAT Act and any tax similar or equivalent to Value Added Tax or performing a similar fiscal function;

**"VAT Act"** means the Value Added Tax Act 1994;

**"VAT Group"** means two or more bodies corporate registered as a group for VAT purposes under Section 43 of the VAT Act; and

**"VAT Regulations"** means the Value Added Tax Regulations 1995; and

**"Working Day"** means any day (other than a Saturday or a Sunday) on which clearing banks in Edinburgh, Glasgow and London are open for normal business.

1.2 In the Missives, unless otherwise specified or the context otherwise requires:

1.2.1 any reference to one gender includes all other genders;

1.2.2 words in the singular only include the plural and *vice versa*;

1.2.3 any reference to the whole is to be treated as including reference to any part of the whole;

1.2.4 any reference to a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and words importing individuals include corporations and *vice versa*;

1.2.5 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 offer;

1.2.6 any reference to a statute or statutory provision includes any subordinate legislation which is in force from time to time under that statute or statutory provision;

1.2.7 any reference to any statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time taking account of any amendment or re-enactment;

- 1.2.8 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;
- 1.2.9 a document will be duly executed only if it is executed in such manner as meets the requirements of Section 3 of the Requirements of Writing (Scotland) Act 1995;
- 1.2.10 any reference to funds being cleared means that the funds are immediately available for withdrawal from the holder's bank account;
- 1.2.11 any reference to "reasonable consent" means the prior written consent of the party in question, such consent not to be unreasonably withheld or delayed; and
- 1.2.12 where a clause provides that Interest is payable and that the sum must be paid within a specified period, no Interest will accrue on the sum provided it is paid within that period,
- 1.3 The headings in the Missives are included for convenience only and are to be ignored in construing the Missives.
- 1.4 The Schedule forms part of the Missives.
- 2 Price**
- 2.1 Payment
- 2.1.1 The Completion Payment will be paid by the Purchaser on the Date of Entry by same day bank transfer of cleared funds from the Purchaser's Bank to the Seller's Bank Account in exchange for the Disposition and other items to be delivered by the Seller referred to in paragraph 5.1 of this Part of the Schedule.
- 2.1.2 A payment not made in accordance with paragraph 2.1.1 of this Part of the Schedule may be refused.
- 2.2 Interest
- If the Completion Payment (and any VAT which the Purchaser has agreed in terms of paragraph 3 of this Part of the Schedule to pay to the Seller on the Date of Entry) or any part of it is not paid to the Seller on the Date of Entry then, notwithstanding consignment or that the Purchaser has not taken entry, the Purchaser will pay to the Seller Interest on the outstanding money.
- 2.3 Cancellation of Sale
- If the Purchaser fails to pay the Completion Payment (and any VAT which the Purchaser has agreed in terms of paragraph 3 of this Part of the Schedule to pay to the Seller on the Date of Entry) with Interest as set out in paragraph 2.2 of this Part of the Schedule within 10 Working Days after the Date of Entry the Seller is entitled to rescind the Missives, to re-sell the Property to any third party and to claim damages from the Purchaser which may include:
- 2.3.1 all costs and expenses incurred in relation to the first re-marketing of the Property and the first re-sale of it;

- 2.3.2 any shortfall between:
- 2.3.2.1 the sale price received by the Seller on any such re-sale; and
  - 2.3.2.2 the Price; and
  - 2.3.2.3 the financial losses including increased funding costs which the Seller would not have incurred had the Price been paid on the Date of Entry and interest which the Seller could have earned on the Price had it been paid on the Date of Entry.

If the Seller rescinds the Missives, no Interest will be due by the Purchaser in terms of paragraph 2.3 of this Part of the Schedule.

#### 2.4 Receipt of Money

For the purposes of paragraph 2 of this Part of the Schedule, money will not be deemed paid to the Seller until such time as same day credit on it is available to the holder of the Seller's Bank Account in accordance with normal banking procedure.

#### 2.5 Suspension

The provisions of paragraphs 2.2 and 2.3 of this Part of the Schedule will not apply for any period(s) of time during which the delay in payment by the Purchaser is due to any failure or breach by or on behalf of the Seller to implement its obligations or duties under the Missives on time.

### 3 **VAT**

3.1 The Seller acting by the Administrators and the Purchaser are of the opinion that the sale of the Property constitutes a TOGC and accordingly agree (subject to the terms and other provisions of this paragraph 3 of this Part of the Schedule):

- 3.1.1 that no VAT will be charged on the Price at Completion and no VAT will form part of the Completion Payment;
- 3.1.2 that the business of letting the Property for a consideration is capable of being operated separately as a business; and
- 3.1.3 to use all reasonable endeavours both before and after Completion to procure that the sale of the Property is treated by HMRC as a TOGC; DECLARING THAT this obligation shall not require the Seller or the Purchaser to make any appeal against any determination of HMRC that the sale does not amount to a TOGC.

3.2 The Purchaser acknowledges that the Seller has exhibited to the Purchaser evidence of the Seller's registration for the purposes of VAT and of the exercise of an Option to Tax in respect of the Property and the Seller, acting through the Administrators, confirm that since the appointment of the Administrators to the Seller it has not and shall not revoke the Option to Tax prior to Completion.

3.3 The Purchaser confirms to the Seller and the Administrators that:

- 3.3.1 it (or the representative member of its VAT Group) will be registered or liable to be registered for the purposes of VAT at Completion;
- 3.3.2 before Completion it (or another person) will:

3.3.2.1 exercise an option to tax in respect of the Property under the VAT Act, Schedule 10, paragraph 2 or make a real estate election under the VAT Act, Schedule 10, paragraph 21; and

3.3.2.2 duly notify such option to tax or real estate election (as the case may be) to HMRC,

in either case, so as to ensure that the conditions in Article 5(2A) of the Value Added Tax (Special Provisions) Order 1995 will be satisfied in respect of the Purchaser's acquisition of the Property from the Seller;

3.3.3 it (or such other person referred to in paragraph 3.3.2) will not revoke its option either before or after Completion and, where such option is treated as having been exercised as a result of a real estate election having been made, will not take any action, or omit to take any action, by virtue of which HMRC could revoke such real estate election;

3.3.4 it will use such assets in carrying on the same kind of business as the Seller;

3.3.5 Article 5 (2B) of the Value Added Tax (Special Provisions) Order 1995 does not apply to the Tenant in relation to the purchase of the Property; and

3.3.6 it is not acting as a nominee.

The Purchaser will exhibit evidence to the Seller, as soon as possible and in any event before Completion of the matters stated in paragraphs 3.3.1 and 3.3.2, which will comprise, if received by the Purchaser (or such other person referred to in paragraph ) prior to Completion. an acknowledgement by HMRC of the notification of such option to tax or where the option to tax is treated as having been exercised in respect of the Property by virtue of the VAT Act, Schedule 10, paragraph 21, an acknowledgement by HMRC of the real estate election made.

3.4 If, notwithstanding the provisions above, HMRC direct in writing that VAT is chargeable on the sale of the Property, the Seller acting by the Administrators will notify the Tenant in writing within 5 Working Days of the Seller acting by the Administrators being so advised by HMRC.

3.5 The Purchaser will pay to the Seller acting by the Administrators within 10 Working Days of written demand a sum equal to the amount of VAT determined by HMRC, in exchange for a valid VAT invoice.

3.6 Subject to paragraph 3.7, the Purchaser will pay, in addition, to the Seller acting by the Administrators within 10 Working Days of written demand an amount equal to the total of any interest, penalties, claims, losses, damages, costs and expenses arising as a consequence of, or in relation to the failure to charge and collect VAT on the Price at Completion and to account for such VAT to HMRC except to the extent that VAT is chargeable on the Price as a consequence of the Seller's failure to comply with its obligations and undertakings in terms of this paragraph 3 of this Part of the Schedule.

3.7 The Seller acting by the Administrators will use all reasonable endeavours to minimise the amount due under paragraph 3.6.

3.8 If the Purchaser fails to pay any amount due under paragraphs 3.5 and 3.6 within the relevant time limit, the Purchaser will pay Interest on the outstanding amount. No Interest will be payable under this paragraph in respect of any amount and time period to the extent that the Seller acting by the Administrators has already been

compensated under paragraph 3.6 for interest in respect of the same amount and the same time period.

- 3.9 The Purchaser and the Seller acting by the Administrators do not intend to make a joint application under regulation 6(1) of the VAT Regulations for the Tenant to be registered for VAT under the Landlord's VAT registration number and the Landlord confirms that it will allow the Tenant such access to VAT records relating to the Property as required by Section 49 of the VAT Act as amended by the Finance Act 2007.

#### 4 **Entry and Apportionments**

##### 4.1 Entry

- 4.1.1 Entry to the Property subject only to and with the benefit of the Occupational Leases will be given on the Date of Entry..
- 4.1.2 No warranty as to vacant possession of the parts of the Property not subject to the Occupational Lease is given.
- 4.1.3 Neither the Seller nor the Administrators shall be under any obligation to remove any rubbish or other items from the Property nor shall the Purchaser be allowed any compensation in respect thereof.

##### 4.2 Rent Apportionment

- 4.2.1 The rents payable under the Occupational Lease will be apportioned (net of VAT) at Completion on the basis that the Purchaser will receive a 1/365<sup>th</sup> part of the rent for each day from (and including) Completion to (but not including) the next rent payment date(s) under the Occupational Lease.
- 4.2.2 In the case of any rent review under an Occupational Lease where the date of such review occurs prior to Completion but the reviewed rent has not been determined by Completion the rent will be apportioned on the basis of the passing rent.
- 4.2.3 The Received Income will be apportioned at Completion with the Purchaser being entitled to deduct from the Price a sum representing the proportion of the Received Income attributable to the period after Completion.
- 4.2.4 To the extent any Other Income is received by the Seller acting by the Administrators after the date of (and including) Completion, the Seller acting by the Administrators will be obliged to make a payment to the Purchaser (such payment will be treated as an expense of the administration pursuant to Paragraph 99 of Schedule B1 of the Insolvency Act 1986) in respect of that Other Income in the sum representing the proportion of the Other Income attributable to the period after Completion within 10 Working Days after such Other Income has been so received in cleared funds.
- 4.2.5 To the extent any Other Income is received by the Purchaser after the date of (and including) Completion, the Purchaser will make payment to the Seller acting by the Administrators in respect of that Other Income in the sum representing the proportion of the Other Income attributable to the period from and including the date on which it was due up to the day before Completion within 10 Working Days after such Other Income has been so received in cleared funds.

### 4.3 Arrears

- 4.3.1 The Seller acting by the Administrators shall deliver to the Purchaser immediately prior to the Date of Entry a list of the Arrears (if any) due by the Occupational Tenant.
- 4.3.2 During the Arrears Collection Period, the Purchaser will use reasonable endeavours to procure payment (inclusive of VAT) from the Occupational Tenant of the Arrears as soon as practicable after Completion but PROVIDED THAT (1) the Purchaser shall not under any circumstances be obliged to take any steps to provide any notice of irritancy or forfeit any of the Occupational Lease or take any proceedings against any of the Occupational Tenant or any guarantors or apply and/or set off the Arrears; and (2) the Purchaser shall only accept a renunciation or surrender of the relevant Occupational Lease in terms of which such Arrears fall due for payment or consent to the terms of any compromise, waiver or release of such Arrears with the Seller acting by the Administrators' prior written consent, such consent not to be unreasonably withheld or delayed.
- 4.3.3 Within ten Working Days of the end of each calendar month, commencing after Completion, the Purchaser shall:-
- 4.3.3.1 Provide the Seller acting by the Administrators with a statement of the Arrears collected in that month (or in the case of the first month, the period between Completion and the end of such month) prepared by the Purchaser or the Purchaser's managing agents; and
- 4.3.3.2 Provide a note of all material steps taken by the Purchaser in respect of the collection and recovery of the Arrears for that period.
- 4.3.4 The Purchaser will pay to the Seller acting by the Administrators all sums (inclusive of VAT) received during the Arrears Collection Period relating to such Arrears (together with any interest paid by the Occupational Tenant in terms of the Occupational Lease) within 10 Working Days of cleared funds being received from the relevant Occupation Tenant.
- 4.3.5 If the Seller acting by the Administrators or its agents receive any payments from the Occupational Tenant in terms of the Occupational Lease after Completion which are not Arrears it will pay them to the Purchaser (such payment will be treated as an expense of the administration pursuant to Paragraph 99 of Schedule B1 of the Insolvency Act 1986) within 10 Working Days of cleared funds being received from the relevant Occupational Tenant.
- 4.3.6 The Purchaser's obligations under paragraph 4.3.3 of this Part of the Schedule to collect the Arrears shall cease on expiry of the Arrears Collection Period provided that if thereafter any payments are made to the Purchaser in respect of such Arrears it will pay them to the Seller acting by the Administrators within 10 Working Days of cleared funds being received from the Occupational Tenant.
- 4.3.7 After Expiry of the Arrears Collection Period the Purchaser shall only accept a renunciation or surrender of the Occupational Lease in terms of which such Arrears fall due for payment or consent to the terms of any compromise, waiver or release of such Arrears with the Landlord's prior written consent, such consent not to be unreasonably withheld or delayed.

- 4.3.8 With effect from (i) the Conclusion Date until Completion and (ii) from and after the expiry of the Arrears Collection Period (but not for the avoidance of any doubt in the period between Completion and the expiry of the Arrears Collection Period), it is acknowledged that the Seller acting by the Administrators shall be entitled to take all reasonable steps or raise (or continue with) any proceedings to recover the Arrears from the Occupational Tenant but shall not be entitled without the prior consent of the Purchaser (at its sole and absolute discretion) to take any of the following steps after the Conclusion Date:
- 4.3.8.1 Take any steps which would lead to a liquidator or administrator being appointed in respect of the Occupational Tenant or to such Occupation Tenant being otherwise wound up or struck off; and
- 4.3.8.2 Take any steps which would lead to the sequestration of the Occupation Tenants or where the Occupational Tenant are a partnership, to the sequestration of any partner of such partnership;
- 4.3.9 It is agreed for the avoidance of any doubt that where any third party (including the Occupational Tenants) owe money to the Purchaser and the Seller it shall be assumed, in the absence of evidence to the contrary, that any money received by the Purchaser from such third party (including the Occupational Tenants) is paid first to the Arrears or any other sums due to the Seller acting by the Administrators and thereafter in respect of any sums then due to the Tenant.

#### 4.4 Apportionments

- 4.4.1 All other payments under the Occupational Lease and all other outgoings for the Property (other than rates, insurance and service charge) will be apportioned as at Completion on an equitable basis.
- 4.4.2 Within 10 Working Days after Completion, the Seller acting by the Administrators will advise the local authority of the change of ownership of the Property so that any apportionment of rates/council tax can be carried out by the local authority.

#### 4.5 Rent Deposits

There are no rent deposits held by or to the order of the Seller.

#### 4.6 Insurance Premia

- 4.6.1 The Seller, acting through the Administrators confirms to the Purchaser that all sums received by the Seller from the Occupation Tenants by way of contribution towards insurance premiums have been duly applied to meet such premiums.
- 4.6.2 The Seller, acting through the Administrators, will, to the extent that the insurance premiums have been pre-paid by the Occupation Tenants, refund to the Occupation Tenants all repayments of premium due in respect of the Property to them for the period after Completion, within 10 Working Days of receipt of such refund, and shall exhibit evidence of the same to the Purchaser if requested.
- 4.6.3 In the event of any of the Occupational Tenant being in arrears in relation to insurance premia due to be paid in terms of the Occupational Lease, the proportion of the insurance premia or costs for the period prior to

Completion apportioned on a daily basis shall be deemed to form part of the Arrears for collection by the Purchaser pursuant to paragraph 4.3.2 of this Part of the Schedule.

#### 4.7 Service Charge

- 4.7.1 The Seller, acting through the Administrators, shall use reasonable endeavours to procure that the Managing Agents take, such action as the Purchaser may reasonably request in writing from time to time in relation to the transfer to the Purchaser of all service charge funds for the Property in accordance with the Missives.
- 4.7.2 The Seller, acting through the Administrators, will be responsible for all service charge expenditure properly incurred and invoiced prior to Completion, and will be entitled to apply any advance service charge monies received from the Occupation Tenants prior to Completion in respect of such expenditure.
- 4.7.3 The Seller, acting through the Administrators, shall use reasonable endeavours to procure that the Managing Agents exhibit an interim service charge reconciliation to the Purchaser prior to Completion detailing current receipts and payments.
- 4.7.4 Except with the reasonable consent of the Purchaser the Seller will not after the Conclusion Date enter into any new contracts or commitments relative to the matters covered by service charge under the Occupation Lease unless they have already been taken into account in either the budget or interim reconciliation.
- 4.7.5 If the advance service charge payments shown in the interim service charge reconciliation (including the sums attributable to unlet space) exceed the aggregate of the Seller's service charge expenditure shown as having been paid and the anticipated service charge expenditure, the Seller, acting through the Administrators, will use reasonable endeavours to procure that its Managing Agent carries forward such surplus for a final accounting between the Purchaser and the Seller upon the issue of the final service charge reconciliation pursuant to paragraph 4.7.9.
- 4.7.6 If the aggregate shown in the interim service charge reconciliation (including the sums attributable to unlet space) exceeds the advance service charge payments, the Seller, acting through the Administrators, will use reasonable endeavours to procure that its Managing Agent carries forward such shortfall for a final accounting between the Purchaser and the Seller upon the issue of the final service charge reconciliation pursuant to paragraph 4.7.9.
- 4.7.7 The Seller, acting through the Administrators, confirms to the Purchaser that:
- 4.7.7.1 the Seller's expenditure on the Property for the Current Service Charge Year has been fully, properly and accurately kept and recorded in its accounts and records and will be reflected in the interim reconciliations which will not contain any material discrepancies or inaccuracies of any kind;
- 4.7.7.2 no repayment or credit is outstanding to any Occupation Tenant in respect of any overpayment by the Occupation Tenant arising from an excess of contributions towards

- estimated service expenditure over service expenditure actually incurred, in relation to any prior service charge year;
- 4.7.7.3 all sums received by the Seller from the Occupation Tenants by way of contribution towards insurance premiums have been duly applied to meet such premiums;
- 4.7.7.4 there are no outstanding claims from any current or former Occupation Tenant for reimbursement in relation to service expenditure in relation to any prior service charge year;
- 4.7.8 The Seller, acting through the Administrators, will pay to the Purchaser any sum recovered at any time from any third party (whether by way of insurance proceeds, compensation or otherwise) to the extent that such sum ought properly to be taken into account in the calculation of the level of actual service expenditure for any service charge year.
- 4.7.9 Within 3 months after Completion, the Seller acting through the Administrators will prepare (and deliver to the Purchaser) a final service charge reconciliation for the Current Service Charge Year to the Date of Entry showing, for the Current Service Charge Year to the Date of Entry:
- 4.7.9.1 the advance service charge payments invoiced to and paid by the Occupation Tenants and the sums attributable to unlet space; and
- 4.7.9.2 the Seller's service charge expenditure which has been properly incurred under the Occupation Lease and paid by the Seller.
- 4.7.10 If the advance service charge payments shown in the final service charge reconciliation (including the sums attributable to unlet space) exceed the aggregate of the Seller's service charge expenditure shown as having been paid, the Seller, acting through the Administrators, will pay or make over the surplus to the Purchaser within 10 Business Days after the date of issue of the final service charge reconciliation which the Purchaser undertakes shall be held and applied by them or its agents for the benefit of the relevant Occupation Tenants in accordance with the terms of the Occupation Leases.
- 4.7.11 If the aggregate of the Seller's service charge expenditure shown in the final service charge reconciliation, as aforesaid, exceeds the advance service charge payments, the Purchaser, who will be entitled to all service charge arrears, will pay and make over the shortfall to the Seller, acting through the Administrators, once it or its agents on its behalf has received the necessary funds to do so from the Occupation Tenants under the Occupation Leases (as to which the provisions of paragraph 4.7 shall apply) save that if the final service charge reconciliation indicates that a balancing charge is due by the Seller, as landlord, the Seller shall pay to the Purchaser, subject to receipt of a VAT invoice therefor, within 10 Business Days of receipt of such invoice, the amount due by way of balancing charge which the Purchaser shall procure is credited against the service charge expenditure incurred to Completion.
- 4.7.12 The Seller, acting through the Administrators, will be liable for the service charge attributable to unlet space and any shortfall in recovery of the service charge as a result of a cap on the Occupation Tenant's liability

for the same, in each case, for the period up to Completion. The Seller's liability to contribute to the service charge for the Current Service Charge Year in relation to unlet space as aforesaid will be assessed on an equitable basis consistent with the provisions of the Occupation Leases for the Current Service Charge Year by being multiplied by the number of days between the expiry of the last service charge year and Completion and divided by 365 and, in the event of there being any dispute as to the amount of such contribution, the matter will be referred to the decision of an independent surveyor, who will act as an expert, appointed jointly or failing agreement, by the Chairman of the RICS in Scotland on the application of either party. The independent surveyor's decision will be binding on the parties. If the independent surveyor dies, delays or becomes unwilling or incapable of acting then either the Seller or the Purchaser may apply to the Chairman to discharge that independent surveyor and appoint a replacement. The fees and expenses of the independent surveyor and the cost of appointment are payable by the Seller and the Purchaser in the proportions which the independent surveyor directs and if no direction is made, equally.

- 4.7.13 The Seller, acting through the Administrators, will also bear the cost of any item incurred prior to Completion and attributed to the service charge which is not recoverable under the Occupation Leases.
- 4.7.14 There is no sinking or similar fund held by or to the order of the Seller (or its agents) as landlords.
- 4.7.15 The Seller will, with effect from the Conclusion Date, allow the Purchaser and its authorised representatives to inspect, by prior arrangement, the Seller's accounts and other records relating to the service charge, rent collection and all matters relating to the management of the Property. Following Completion, the Seller and the Purchaser shall procure that their respective managing agents co-operate with each other in relation to the handover of all documentation and information in relation to service charge and management matters generally.
- 4.7.16 The Purchaser will have no obligations or liabilities in respect of the continuing employment of the Managing Agents except to the extent expressly undertaken by the Purchaser in the Missives.

#### 4.8 Utilities

The Seller acting by the Administrators shall arrange for all service/utility meters located within the Property for utilities for which the Seller is responsible to be read as at Completion and thereafter the Seller acting by the Administrators will notify each of the utility providers of the sale and the meter readings within 10 Working Days after Completion.

#### 4.9 NOPL

Neither the Seller nor the Administrators are aware of any circumstances which may give rise to a NOPL being registered under either the 2003 Act nor are they aware of any NOPL registered or about to be registered under the 2003 Act. In the event of any NOPL registered under either the 2003 Act being registered by or on behalf of any party prior to 10 Business Days before Completion the Purchaser agrees by your acceptance hereof that the provisions of Section 10(3) of the 2003 Act shall not apply in the purchase by the Purchaser from the Seller of the Property and further and notwithstanding the generality of the foregoing and without prejudice thereto the Purchaser agrees that the Seller, acting through the Joint Supervisors, shall not be obliged to make payment under or discharge or provide satisfaction of any NOPL registered over the Property or any part thereof.

4.10 Search Costs

The Purchaser shall reimburse to the Seller acting by the Administrators on the Date of Entry, the Search Costs.

4.11 Measurement Survey Fee

Upon receipt of the measurement survey of the Property being re-addressed to and delivered to the Purchaser, the Purchaser shall reimburse to the Seller acting by the Administrators on the later of (1) the Date of Entry or (2) the date that the re-addressed survey report is delivered to the Purchaser, the Measurement Survey Fee.

4.12 Interest

In the event that any sums due to be paid to the Seller acting by the Administrators or the Purchaser subsequent to Completion in terms of this paragraph 4 are paid late, Interest will run on the outstanding moneys from the due date until paid.

**5 Completion**

5.1 At Completion the Purchaser will:

5.1.1 pay the Completion Payment (and any VAT ascertained at Completion as being payable on the Price);

5.1.2 deliver to the Seller acting by the Administrators the items to be delivered pursuant to paragraph 3.2 of this Part of the Schedule; and

5.1.3 if the Purchaser is an Overseas Entity deliver a search in the ROE as provided for in paragraph 19.3 of this Part of the Schedule.

5.2 In exchange for the items in paragraph 5.1 of this Part of the Schedule, the Seller acting by the Administrators will deliver to the Purchaser (insofar as not already delivered or held by the Purchaser):

5.2.1 the Disposition duly executed on behalf of the Seller by one of the Administrators pursuant to their joint and several powers;

5.2.2 the Bank Release duly executed on behalf of the Bank together with completed application forms for recording/registration and payment for the correct amount of recording/registration dues;

5.2.3 copies of the Title Deeds;

5.2.4 copies of the Occupational Lease;

5.2.5 copies of the remaining Disclosed Documents;

5.2.6 a Notice of Change of Landlord addressed to the Occupational Tenant and signed by the Seller's Solicitors in terms of the draft notice forming SCHEDULE 5 of the Schedule; and

5.2.7 any other deeds and documents to be delivered to the Tenant on or before Completion in terms of the Missives.

5.3 The Seller shall not be required to transfer the Property to any person or party other than the Purchaser; nor in more than one lot; nor at more than the Price under the terms of the Missives; nor at a price divided between different parts of the Property.

5.4 The Excluded Assets are excluded from the sale and purchase under the Missives.

## 6 Insurance

6.1 From the Conclusion Date until Completion, the Seller will use reasonable endeavours for so long as such cover is available in the UK insurance market on reasonably acceptable commercial terms (as to which the Administrators shall be the sole judge) maintain the Policy in accordance with its present terms of cover until Completion at no cost to the Purchaser.

6.2 The Seller gives no express or implied warranty that the risks or sums insured under the Policy are adequate or sufficient and the Purchaser is to satisfy itself in these respects.

6.3 The Seller shall not have any liability where the Policy becomes void or voidable by the insurers otherwise than owing to the wilful default of the Seller.

6.4 The Seller shall within 5 Working days of Completion cancel such insurance (under reservation of prior claims).

## 7 Damage or Destruction

7.1 Risk of damage to or destruction of the Property will not pass to the Purchaser until Completion.

7.2 Notwithstanding the foregoing, the Seller shall not be required to keep any existing buildings and/or structures on the Property in their current condition.

7.3 Except for the Purchaser's right to resile contained in paragraph 7.4 of this Part of the Schedule, no damage to or destruction of the Property nor any deterioration in its condition, however caused, will entitle the Purchaser to any reduction of the Price or to any damages or compensation or to delay the Date of Entry.

7.4 If prior to Completion the Property sustains damage (whether insured or otherwise) which at common law would entitle a hypothetical tenant under a hypothetical lease of the Property to an abatement of rent of an amount exceeding 20% of the rent, as the same shall be intimated by the Purchaser or the Seller acting by the Administrators to the other party and agreed by such other party or, failing agreement, determined pursuant to paragraph 7.5 of this Part of the Schedule, either party will be entitled to resile from the Missives without penalty on delivery of written notice to that effect to the other party's solicitors no later than midday on the date on which Completion is due to take place, time being of the essence.

7.5 If there is any dispute as to whether the Property has suffered such damage, then the matter will be referred to the decision of an independent surveyor who will act as an expert appointed, failing agreement, by the Chair of the RICS in Scotland on application by either party. The independent surveyor's decision will be binding on the parties. If the Independent surveyor dies, delays or becomes unwilling or incapable of acting then either the Seller or the Purchaser may apply to the Chair to discharge that independent surveyor and appoint a replacement. The fees and expenses of the independent surveyor and the cost of appointment are payable by the Seller and the Purchaser in proportions which the independent surveyor directs and, if no direction is made, equally.

7.6 Subject to paragraph 7.4 of this Part of the Schedule, if the Property is damaged or destroyed by a risk which is covered by the Policy prior to Completion, the Seller's responsibility to the Purchaser at Completion will be:

7.6.1 to pay to the Purchaser the insurance proceeds received by the Seller to the extent that they have not been spent on reinstatement; and

- 7.6.2 to assign (in so far as it can validly and competently do so) its rights (if any) in respect of the insurance proceeds specified in Clause to the Purchaser, the assignation to be in a form agreed by the parties (acting reasonably).

## 8 Advance Notices and Searches

- 8.1 The Seller will apply to the Keeper for an Advance Notice for the Disposition, in the form adjusted with the Purchaser, to be entered on the application record for the Property no earlier than 5 Working Days prior to the Date of Entry.
- 8.2 The Seller consents to the Purchaser applying to the Keeper for Advance Notices for any deeds which the Purchaser intends to grant in relation to the Property. The cost of any Advance Notices which the Purchaser applies for will be met by the Purchaser.
- 8.3 If the Seller rescinds the Missives, the Purchaser consents to the discharge of the Advance Notice for the Disposition and the Purchaser confirms that it will immediately discharge at its own cost any Advance Notice submitted by it if requested to do so by the Seller.
- 8.4 If Completion is likely to occur after the Date of Entry, the Seller, if requested to do so by the Purchaser, will apply for a further Advance Notice for the Disposition, in the form adjusted with the Purchaser, and the cost of any additional Advance Notices will be met:
- 8.4.1 by the Seller, if the delay in settlement is due to any failure or breach by or on behalf of the Seller to implement its obligations under the Missives on time; or
- 8.4.2 by the Purchaser, if the delay in settlement is due to any failure or breach by or on behalf of the Purchaser to implement its obligation under the Missives on time.
- 8.5 The Seller's Solicitors will not provide any letter of obligation undertaking to clear the records of any deed, decree or diligence.
- 8.6 The Seller's Solicitors will not obtain and deliver any further reports, searches or updated property enquiry certificates.
- 8.7 The Purchaser will be entitled to obtain (at the expense of the Purchaser) an updated legal report and an updated search in the RCIL and the RACBBL in each case against the Property brought down to a date as near as practicable to Completion which report will show:
- 8.7.1 no entries which would prevent the Seller transferring title to the Property to the Purchaser;
- 8.7.2 the Advance Notice for the Disposition; and
- 8.7.3 no other Advance Notices other than those submitted by the Purchaser.

If any such legal report and/or search in the RCIL and the RACBBL obtained does not comply with the provisions of the foregoing part of this paragraph 8.7 of this Part of the Schedule the Purchaser's only remedy shall be to resile from the Missives prior to Completion without penalty (due or by either party) on delivery of written notice to that effect to the Seller's Solicitors no later than 4:00pm on the date on which Completion is due to take place, time being of the essence; DECLARING THAT if the Purchaser does not timeously resile from the Missives as aforesaid, then the Purchaser shall proceed with the purchase of the Property and shall have no claim against the Seller and/or the Administrators on account of whatever is disclosed in the updated legal

report and the updated search in the RCIL and the RACBBL; DECLARING FURTHER THAT the Purchaser accepts that the disclosure of the following are not (in each case) either adverse to the Seller's title to the Property or would prevent the Seller transferring title to the Property to the Purchaser, namely, (1) any inhibitions or other diligences (other than adjudication) against (i) the Seller registered after the date of the Administrators' appointment; and (ii) the Administrators other than in their capacity as individual and/or joint administrators of the Seller; (2) the Bank Standard Security PROVIDED THAT at Completion the Bank Release is delivered pursuant to paragraph 5.2.2 of this Part of the Schedule or at the Seller's Solicitors' sole and absolute discretion, a solicitors undertaking is delivered to the Purchaser's Solicitors at Completion in lieu thereof, undertaking to deliver the Creditor Release to the Purchaser's Solicitors within 28 days of Completion; (3) the appointment of the Administrators; and (4) the disclosure of any entry in any of the legal reports referred to in the Disclosed Documents whether or not said entry is reported in the updated legal report.

## 9 Environmental

### 9.1 Definitions

In paragraph 9 of this Part of the Schedule:

**"Environment"** means any and all organisms (including humans), ecosystems, natural or man-made buildings or structures, and the following media:

- 9.1.1 air (including air within buildings or structures, whether above or below ground);
- 9.1.2 water (including surface and ground water and water in wells, boreholes, pipes, sewers and drains); and
- 9.1.3 land (including surface land and sub-surface strata and any land under seabeds or rivers, wetlands or flood plains);

**"Environmental Authority"** means any person or legal entity (whether statutory or non-statutory or governmental or non-governmental) having regulatory authority under Environmental Law and/or any court of law or tribunal or any other judicial or quasi-judicial body;

**"Environmental Law"** means all laws, regulations, directives, statutes, subordinate legislation, rules of common law and generally all international, EU, national and local laws and all judgments, orders, instructions, decisions, guidance awards, codes of practice and other lawful statements of any Environmental Authority applying from time to time in relation to the Property in respect of pollution of or protection of the Environment or the production, processing, treatment, storage, transport or disposal of Hazardous Substances, in each case insofar as having the force of law; and

**"Hazardous Substances"** means any natural or artificial substance (whether in solid or liquid form or in the form of a gas or vapour and whether alone or in combination with any other substance) capable of causing harm to the Environment and/or harm to the health of living organisms or other interference with the ecological systems of which they form part and/or harm to property and/or in the case of humans, offence caused to any sense.

## 9.2 Agreement as to environmental liabilities

The Seller and the Purchaser agree that:

- 9.2.1 if any notice or requirement of any Environmental Authority made pursuant to Environmental Law is served on or made of either of them in respect of the Property or any Hazardous Substances attributable to the Property, then, as between the Seller and the Purchaser, the sole responsibility for complying with such notice or requirement is to rest with the Purchaser to the exclusion of the Seller and the Administrators; and
- 9.2.2 if any Environmental Authority wishes to recover costs incurred by it in carrying out any investigation, assessment, monitoring, removal, remedial or risk mitigation works under Environmental Law in respect of the Property or any Hazardous Substances attributable to the Property from either or both of the Seller and the Purchaser then, as between the Seller and the Purchaser, the sole responsibility for the payment of such costs is to rest with the Purchaser to the exclusion of the Seller and the Administrators.

The agreement outlined under paragraph 9.2.1 of this Part of the Schedule are made with the intention that any Environmental Authority serving any notice or seeking to recover any costs should give effect to the Missives pursuant to the statutory guidance issued under Part IIA of the Environmental Protection Act 1990.

The Seller and the Purchaser agree that the appropriate Environmental Authority may be notified in writing of the provisions of paragraph 9 of this Part of the Schedule if required to give effect to the Missives outlined under paragraph 9.2 of this Part of the Schedule.

## 9.3 Sold with information

9.3.1 The Purchaser acknowledges to the Seller that:

- 9.3.1.1 it has carried out its own investigations of the Property for the purposes of ascertaining whether, and if so the extent to which, Hazardous Substances are present in, on, under or over the Property;
- 9.3.1.2 such information gathered through those investigations is sufficient to make the Purchaser aware of the presence in, on, under or over the Property of any Hazardous Substances referred to in the reports;
- 9.3.1.3 it relies at its own risk on the contents of any report, plan and other written material and information either disclosed to it or orally communicated to it by or on behalf of the Seller both as to the condition of the Property and as to the nature and effect of any remedial works which may have been carried out and no warranty is given or representation made by or on behalf of the Seller in this respect; and
- 9.3.1.4 it has satisfied itself as to the condition of the Property.

9.3.2 Both parties agree that:

- 9.3.2.1 the Purchaser has been given permission and adequate opportunity to carry out its own investigations of the Property for the purpose of ascertaining whether, and if

so the extent to which, Hazardous Substances are present in, on, under or over the Property;

9.3.2.2 the transfer of the Property pursuant to the Missives is an open market arm's length transaction; and

9.3.2.3 the Seller will not retain any interest in the Property or any rights to occupy or use the Property following Completion.

9.3.3 The acknowledgements in this paragraph 9.3 of this Part of the Schedule are made in order to exclude the Seller and the Administrators from liability under Part IIA of the Environmental Protection Act 1990 so that neither the Seller nor the Administrators is an appropriate person, as defined therein,

## 10 Disclosed Documents

10.1 The Purchaser is deemed to have examined the Disclosed Documents and accepts that it is purchasing the Property on the basis that it has satisfied itself on all matters disclosed in them including:-

10.1.1 the Title Deeds (including the extent and nature of the Property, the validity and marketability thereof and the whole burdens, conditions and others affecting the same) and no warranty as to title will be implied in the Transaction Documents;

10.1.2 the Occupational Lease; and

10.1.3 the validity of the appointment of the Administrators.

10.2 No requisition will be made by the Purchaser in respect of the Seller's title to the Property or the Occupational Lease or the Administrators' appointment.

10.3 Paragraph 10.1 of this Part of the Schedule will override any other provision of the Missives apparently to the contrary.

## 11 Title

11.1 The Property is sold with and under the Encumbrances affecting the Property whether specified or referred to in the Title Deeds or not.

11.2 The minerals are included in the sale to the extent to which the Seller has any right to them.

11.3 The Property is sold in its existing condition and no warranty is given as to the extent of it or as to its fitness for any purpose.

11.4 The Purchaser accepts the Property in its physical state and condition.

11.5 The Property is sold subject to:

11.5.1 all notices served and orders, demands, proposals, resolutions, restrictions, requirements made by any local or other competent authority whether before or after Completion;

11.5.2 all actual or proposed restrictions, conditions, charges, agreements, regulations or other liabilities arising under all legislation from time to time in force;

- 11.5.3 all wayleaves, licences, agreements, leases and tenancies affecting the Property;
  - 11.5.4 any conditions, restrictions, exceptions, reservations, agreements and declarations and all other matters affecting the Property; and
  - 11.5.5 all matters which would be evident on an inspection or survey of the Property.
- 11.6 Without prejudice to paragraphs 11.3 and 11.5 (inclusive) of this Part of the Schedule, the Purchaser acknowledges that:
- 11.6.1 prior to Completion the Purchaser has made (or has chosen not to make) all the searches, enquiries and inspections which a prudent purchaser would make;
  - 11.6.2 the Purchaser purchases the Property subject to anything which those searches, enquiries and inspections did reveal or would have revealed to the Purchaser, and
  - 11.6.3 other than the Disclosed Documents, the Purchaser has not relied on any representation written, oral or implied made by or on behalf of the Seller and/or the Administrators.

## 12 Statutory Matters

- 12.1 The Purchaser is deemed to have satisfied itself on the application of all statute and statutory regulations and rules in so far as affecting or relating to the Property and the Seller gives no warranties or assurances on such matters.
- 12.2 The Seller has exhibited a property enquiry certificate in respect of the Property prior to the Conclusion Date. The Property is sold subject to any notices, orders, proposals, demands or others served or made by any local or other public authority (as to all of which the Purchaser is deemed to have satisfied itself) whether issued prior to, on or after the Conclusion Date and in the case of any statutory repairs notices which are issued prior to Completion these will as between the Purchaser and the Seller, from and after Completion, be the sole responsibility of the Purchaser.

## 13 Exclusion of Representations and Warranties

- 13.1 The provisions of paragraphs 9 and 12 (inclusive) of this Part of the Schedule are in addition to, and do not limit any provision of this clause.
- 13.2 No warrandice will be given by either the Seller or the Administrators, and the Disposition will expressly exclude warrandice by both the Seller and the Administrators.
- 13.3 The Purchaser agrees that in effecting the purchase of the Property, other than the Disclosed Documents, it is not relying upon any information, warranty, undertaking, statement, representation or silence on the part of the Seller or the Administrators or any of their solicitors, advisers, valuers, employees, agents, co-members or partners or representatives, or anyone acting for them or on their behalf, or all or any of them, whether or not made within any document prepared by or on behalf of the Administrators (whether acting as agents of the Seller or otherwise) and that the Purchaser is not relying upon any other written or oral representation made to it or its representatives or agents by the Administrators or their representatives or agents.
- 13.4 All representations, warranties and conditions, express or implied, arising at common law, under statute or otherwise (including representations, warranties and conditions as to the right, title or interest of the Seller or the Administrators to the Property and

as to the existence of the Property or any part of it) in respect of the Property or any part of it are expressly excluded.

- 13.5 The Purchaser agrees that the Seller and/or the Administrators, having not given any warranty, guarantee or other assurance, will have no responsibility or liability arising from the nature, condition, quality, state, description, fitness for purpose or use or any other aspect of the Property, or any matters concerning or incidental to it and any fixtures and fittings therein and thereon including central heating systems, boilers, drainage, gas and electrical pipes, cables and systems.
- 13.6 The Purchaser agrees that the provisions of the Missives are fair and reasonable in the circumstances of the insolvency of the Seller, and accord with normal practice on administration sales, where it is usual that no representations, warranties and conditions express or implied, statutory or otherwise, are given by or on behalf of the Seller or the Administrators (or either of them). This is the case in particular in the light of the fact that:
- 13.6.1 the Purchaser has had every opportunity it may wish to inspect and investigate the Property and any fixtures and fittings therein and thereon including central heating systems, boilers, drainage, gas and electrical pipes, cables and systems;
- 13.6.2 the Purchaser is aware of the need to rely on that opportunity by reason of the absence of representations, warranties and conditions;
- 13.6.3 the Seller is insolvent and faces the constraints on selling necessarily imposed on it in that circumstance;
- 13.6.4 the knowledge of the Property available to the Administrators and their partners, staff and advisers, including but not limited to solicitors and valuers, is necessarily limited;
- 13.6.5 the Seller and the Administrators have informed the Purchaser that the Purchaser must rely absolutely on the Purchaser's own opinion and/or professional advice concerning:
- 13.6.5.1 the Property which is sold *tantum et tale*;
- 13.6.5.2 the quality, state and condition of the Property;
- 13.6.5.3 its fitness and/or suitability for any purpose;
- 13.6.5.4 the possibility that the Property (or any part of it) and any fixtures and fittings therein and thereon including central heating systems, boilers, drainage, gas and electrical pipes, cables and systems may have defects not apparent on inspection and examination (which could even render it inappropriate that it should be described as it is in fact described in the Missives or in any list referred to in the Missives); or
- 13.6.5.5 the reason that the Purchaser has or should have for purchasing the Property and the use that the Purchaser intends or should intend to put it to; and
- 13.6.6 the Purchaser has (and has informed the Seller and the Administrators that it has) available to it (either internally or externally) skilled professional advice concerning the Property, and that it is on the basis of this advice that the Purchaser has agreed to purchase the Property in its present state and condition for a consideration that is calculated to

take into account (amongst other things) the risk of the Purchaser, represented by the fact that all the parties believe that the exclusions and limitations contained in the Missives would be recognised by the Courts (the Seller and the Administrators making it clear that they would not have agreed to sell the Property on any other basis).

- 13.7 For the avoidance of doubt, and notwithstanding any other provision of the Missives or the Transaction Documents, the Seller and the Administrators will have no obligation to discharge in whole or in part any liability or obligation of the Seller, regardless of how it arises, and whether actual, future, contingent or otherwise, outstanding at the time of the Administrators' appointment.

## 14 Administrators

- 14.1 It is an essential condition of the Missives:

14.1.1 that the Administrators contract solely as agents of the Seller and will incur no personal liability of any nature (whether directly or indirectly, express or implied) including without prejudice to the foregoing generality, personal liability in respect of any action or actions in pursuance of the Seller's rights and/or obligations under the Missives and whether formulated in contract and/or delict and/or tort and/or restitution, or by reference to any other remedy or right, and regardless of the jurisdiction or forum in which it is raised;

14.1.2 that no claim which may be or become competent to the Purchaser arising directly or indirectly from the Transaction Documents will lie against the Administrators personally, and the Administrators will be entitled at any time to have any such deeds, documents or others amended to include an exclusion of personal liability in terms of this clause; and

14.1.3 that any personal liability of the Administrators which would in terms of the Insolvency Act 1986 arise but for the provisions of this clause is expressly excluded.

- 14.2 The Administrators have joined in as parties to the Missives solely for the purpose of obtaining the benefit of the provisions of this clause and any other provisions in the Missives in their favour.

- 14.3 Nothing in the Missives constitutes a waiver of any right of the Administrators to be indemnified, or to exercise a lien, whether under the provisions of the Insolvency Act 1986 or otherwise.

## 15 Entire Agreement

- 15.1 The Missives (including the annexations) will represent and express the full and complete agreement between the parties relating to the sale of the Property at the Conclusion Date and will supersede any previous agreements between the parties relating to it.

- 15.2 Each of the parties acknowledges and agrees that it has not entered into any Transaction Document in reliance on any statements or representations of any person (whether party to the Missives or not) other than as expressly incorporated in the Missives.

- 15.3 Without limiting the generality of the terms of paragraph 15.1 and 15.2 of this Part of the Schedule each of the parties irrevocably and unconditionally waives any right or remedy it may have to claim damages and/or to rescind the Missives by reason of any misrepresentation (other than a fraudulent misrepresentation) having been made

to it by any person (whether party to the Missives or not) and upon which it has relied in entering into any Transaction Document.

- 15.4 Nothing contained in the Missives or in any other document referred to or incorporated in it will be read or construed as excluding any liability or remedy arising as a result of fraud or fraudulent misrepresentation.

## 16 **Claims by the Purchaser**

- 16.1 Without prejudice to paragraph 14 (Administrators) of this Part of the Schedule, any claim by the Purchaser arising pursuant to the Missives or in connection with the sale of the Property will only be made against the Seller and not the Administrators. The statutory charges in Paragraph 99 of Schedule B1 of the Insolvency Act 1986 will not apply to such a claim which will only be an ordinary unsecured claim (except where the provisions of paragraph 99 of Schedule B1 of the Insolvency Act 1986 are expressly stated in the Missives to apply but not otherwise) against the Seller and will be limited to the Price.
- 16.2 All claims by the Purchaser under the Missives or in connection with the sale of the Property must be made within three months of the Date of Entry, and, if not so made, will be deemed to have been waived.

## 17 **Service Contracts**

- 17.1 The Seller acting by the Administrators shall deliver to the Purchaser immediately prior to the Date of Entry a list of the service contracts for the service, maintenance and other contracts entered into by or on behalf of the Seller in connection with the maintenance and management of the Property ("the Service Contracts").
- 17.2 The Seller acting by the Administrators shall ensure that the Service Contracts are terminated with effect from Completion and the cancellation costs of any such contracts will not, as between the Seller acting by the Administrators and the Purchaser qualify as allowable expenditure for the purposes of any service charge calculations and the Purchaser shall have no liability whatsoever for the performance of any such Service Contracts or the payment of any sums due under the same.
- 17.3 The Purchaser will have no responsibility or liability for the Service Contracts prior to Completion.

## 18 **Access**

Subject to the terms of the Occupational Lease, access to the Property prior to the Date of Entry will be given to the Purchaser, its surveyors and other professional advisers for all reasonable purposes (including examining the Property), provided that the Purchaser will ensure that in doing so they:

- 18.1 comply with the Seller's and the Administrators' reasonable requirements,
- 18.2 comply with the access restrictions imposed on the Seller under the Occupational Lease; and
- 18.3 exercise reasonable restraint and make good all loss, injury and damage caused to the Property.

## 19 **Overseas Entities**

- 19.1 If the Purchaser is an Overseas Entity, it confirms that:
- 19.1.1 it is a Registered Overseas Entity;

- 19.1.2 it has complied with the duty to update the ROE in Section 7 of the 2022 Act; and
- 19.1.3 the information held in the ROE for the Purchaser is correct, complete and up to date.
- 19.2 A search in the ROE against the Purchaser confirming the statements in paragraph 19.1.1 of this Part of the Schedule will be delivered prior to the Conclusion Date.
- 19.3 An updated search in the ROE brought down as near as practicable to Completion will be delivered to the Landlord at Completion.
- 19.4 The cost of the searches will be the responsibility of the Tenant.

## 20 **Announcements**

Any public announcement or similar intimation, or any press or other release or statement in relation to the purchase and sale of the Property will first be agreed in writing between the Administrators and the Purchaser, provided that nothing in this clause will require the Administrators to obtain the consent of the Purchaser to (i) make any statement or release any information which the Administrators are required to do in compliance with their statutory duties or (ii) allow disclosure by the Administrators of information to any holder of a security interest in the Seller.

## 21 **Formal documentation required**

Neither the Seller nor the Purchaser will be bound by any acceptance of this offer or any other letter purporting to form part of the Missives or any amendment or variation of the Missives unless it is duly executed.

## 22 **Waivers**

- 22.1 No failure to exercise, nor any delay in exercising, on the part of the Seller and/or Administrators, any right or remedy under the Missives will operate as a waiver of any such right or remedy or constitute an election to affirm the Missives.
- 22.2 No election to affirm the Missives on the part of the Seller and/or Administrators will be effective unless it is in writing.
- 22.3 No single or partial exercise of any right or remedy will prevent any further or other exercise or the exercise of any other right or remedy.
- 22.4 All of the rights and remedies of the Seller and/or the Administrators provided in these Missives are cumulative and not exclusive of any other rights or remedies of Seller and/or the Administrators, whether provided by law or otherwise.

## 23 **Exclusion of set off**

- 23.1 The Purchaser will not:
  - 23.1.1 have available to it any rights to set-off any sums due to be paid or for which the Purchaser may be liable to account to the Seller and/or the Administrators in terms of the Missives (including any VAT thereon (if applicable)) against any claim which may be available to it of any nature arising pursuant to the Missives or otherwise; or
  - 23.1.2 be entitled to exercise any right of lien against any property or asset of the Seller which is in the Purchaser's possession or under its control at any time on or after the Date of Entry;

23.2 The Purchaser waives all and any express or implied rights of set-off or lien, as the case may be, which otherwise may be available to it, regardless of how such rights arise. Accordingly, the Purchaser will be bound to implement any obligation to make payment to the Seller and/or the Administrators arising pursuant to the Missives in full without exercising any right of deduction or withholding including set off, counterclaim, retention, reduction, abatement or compensation.

#### 24 **Rights of third parties**

24.1 Subject to paragraph 24.2 of this Part of the Schedule, no person who is not a party to the Missives will be entitled to enforce it.

24.2 The Benefited Persons will be entitled to enforce and rely on the provisions of the Administrator Protections in their favour to the same extent as if they were party to the Missives.

24.3 The rights of the parties to these Missives to terminate, rescind, vary, amend or agree any waiver or settlement under the Missives will not be subject to the consent of any Benefited Person or any other person who is not a party to the Missives.

#### 25 **Exclusion of personal liability of solicitors**

25.1 No personal liability will attach to the Purchaser's Solicitors by virtue of their entering into the Missives in their capacity as agents for the Purchaser.

25.2 No personal liability will attach to the Seller's Solicitors by virtue of their entering into the Missives in their capacity as agents for the Seller.

25.3 The Seller and the Purchaser will be solely liable to each other for compliance with, and fulfilment of, their respective obligations under the Missives.

#### 26 **Assignment**

The Purchaser may not (whether at common law or otherwise):

26.1 assign, transfer, grant any security interest over, hold on trust or deal in any other manner with the benefit of the whole or any part of its interest in the Missives;

26.2 sub-contract any or all of its obligations under the Missives; nor

26.3 purport to do any of the foregoing.

#### 27 **Validity**

If, at any time, any provisions of the Missives shall become or be held to be of no effect or unenforceable, whether by operation of law or by reason of uncertainty or otherwise, this shall not affect the validity or enforceability of the remainder of the Missives which shall remain in full force and effect.

#### 28 **Notices**

28.1 Any notice under the Missives:-

28.1.1 must be in writing, signed by or on behalf of the party giving it;

28.1.2 to either party is effective if served on that party or on that party's solicitors;

- 28.1.3 must be given by hand delivery or first class recorded delivery post as follows:-
- 28.1.3.1 to the Seller at its registered office or to the Seller's Solicitors; or
- 28.1.3.2 to the Purchaser at its registered office or to the Purchaser's Solicitors; or
- 28.1.3.3 (for either party) to such address or other solicitors as has previously been notified by the receiving party.
- 28.2 Any notice given in accordance with paragraph 28.1 of this Part of the Schedule shall be deemed to have been received:-
- 28.2.1 if hand delivered at the time of (as applicable) delivery on any Working Day except that if delivery occurs:-
- 28.2.1.1 before 9am on a Working Day, the notice will be deemed to have been received at 9am that day;
- 28.2.1.2 after 5pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9am on the next Working Day; and
- 28.2.2 if sent by first class recorded delivery post, at 9am on the second Working Day after posting.
- 28.3 In proving delivery, it will be sufficient to prove that (as applicable) the hand delivery was made, or the envelope containing the notice was properly address and posted as a first class recorded delivery letter.
- 28.4 Email or other electronic means of delivery (including fax) is not a competent method of service of any notice under the Missives.

## 29 **Governing Law and Jurisdiction**

- 29.1 The Missives (and any non-contractual obligations arising out of or in connection with the Missives) will be governed by the law of Scotland.
- 29.2 The Scottish courts will have exclusive jurisdiction to settle any dispute arising out of or in connection with the Missives (including any dispute relating to the existence, validity or termination of, or any non-contractual obligation arising out of or in connection with, the Missives).

## SCHEDULE 2

### DISCLOSED DOCUMENTS

#### 1 Title information

- 1.1 STG19506 - Title Sheet
- 1.2 STG19506 - Title Plan

#### 2 Lease Documents

- 2.1 Copy Extract Lease of 2<sup>nd</sup> Floor East Suite between Hazledene House Limited and Scottish Sea Farms Limited dated 13 and 18 October and registered in the Books of Council and Session on 21 October all dates in the year 2016.
- 2.2 Copy Minute of Agreement between Protector Number 1 Limited and Scottish Sea Farms Limited dated 5 and 6 January both dates in the year 2021
- 2.3 Copy Minute of Extension between Protector Number 1 Limited and Scottish Sea Farms Limited dated 28 August 2023
- 2.4 Copy Extract Tripartite Licence between MJ Gleeson Group Plc, Capital Bank Plc and Hydro Seafood GSP Limited dated 4 May and 1 June both dates in the year 1998 and 10 March 1999.

#### 3 Reports and Searches

- 3.1 Millar & Bryce Legal Report (STG19506) dated 4 September 2023 including personal searches
- 3.2 Millar & Bryce Register in Community Interests in Land dated 4 September 2023
- 3.3 Millar & Bryce Property Enquiry Certificate dated 1 September 2023
- 3.4 Millar & Bryce Charges Search against Protector Number 1 Limited dated 4 September 2023
- 3.5 Landmark Information Sitecheck Assessment dated 4 September 2023
- 3.6 Coal Authority Coal Mining Report dated 4 September 2023
- 3.7 Energy Performance Certificate dated 29 January 2018
- 3.8 S63 Action Plan dated 31 July 2018
- 3.9 Electrical Installation Condition Report dated October 2021
- 3.10 Millar & Bryce Roads Adoption Plan dated 4 September 2023
- 3.11 Millar & Bryce Roads Adoption Report dated 4 September 2023
- 3.12 Rateable Values - Laurel House
- 3.13 Lift Maintenance Letter dated 15 July 2022
- 3.14 Legionella Risk Assessment dated 6 May 2021
- 3.15 Fire Risk Assessment dated 3 February 2021

#### 4 **Planning**

- 4.1 Graham + Sibbald Planning Position Report dated 22 August 2023
- 4.2 Online Property History dated 28 June 2023

#### 5 **VAT documentation**

- 5.1 HMRC Option to Tax confirmation
- 5.2 Protector Number 1 Limited - VAT Number check

#### 6 **Administration Details**

- 6.1 Notice of Appointment of Administrators

#### 7 **Service Charge Information**

- 7.1 Service Charge Budget (February 2022 - February 2023)
- 7.2 Service Charge Budget Apportionment
- 7.3 Service Charge Expenditure dated 19 July 2023
- 7.4 Service Charge Account (February 2022 - February 2023)
- 7.5 Service Charge Account (February 2021 - February 2022)
- 7.6 Service Charge Account (February 2020 - February 2021)
- 7.7 Service Charge Invoice dated 12 July 2023
- 7.8 Tenant Demand (28 May 2023 - 27 August 2023)
- 7.9 Payment History (November 2019 - August 2023)
- 7.10 Maintenance Schedule dated 3 February 2020
- 7.11 Arrears List

## SCHEDULE 3 DISPOSITION

### 1 Definitions

In this disposition:

**"Administrators"** means **GARY HARGREAVES**, FRP Advisory Trading Limited, Derby House, 12 Winckley Square, Preston PR1 3JJ, **PHILIP DAVID REYNOLDS**, FRP Advisory Trading Limited, 2nd Floor, 110 Cannon Street, London EC4N 6EU and **MICHELLE ELLIOT**, FRP Advisory Trading Limited, Level 2, The Beacon, 176 St Vincent Street, Glasgow G2 5SG appointed as joint administrators of the Seller on 3 April 2023;

**"Date of Entry"** means [●];

**"Lease"** means the lease of the Property between Hazledene House Limited and the Tenants dated 13 and 18 October and registered in the Books of Council and Session on 21 October all dates in the year 2016 as subsequently varied or amended;

**"Price"** means [●];

**"Property"** means ALL and WHOLE Laurel House, Polmaise Road, Stirling FK7 9JU being the whole subjects registered in the Land Register of Scotland under Title Number STG19506; 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 [●];

**"Seller"** means **PROTECTOR NUMBER 1 LIMITED (IN ADMINISTRATION)**, incorporated under the Companies Acts (Registered Number 11250160) and having their Registered Office at formerly at Beario, Old Fire Station Enterprise Centre, Salt Lane, Salisbury, Wiltshire, SP1 1DU and now at c/o FRP Advisory Trading Limited, Derby House, 12 Winckley Square, Preston, PR1 3JJ.

### 2 Consideration

2.1 The Seller is the proprietor of the Property.

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

2.3 The Seller acting by the Administrators acknowledges receipt of the Price.

### 3 Disposition

The Seller acting by the Administrators DISPONES the Property to the Purchaser.

### 4 Community Interests

The Seller acting by the Administrators 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.

### 5 Entry

The Property is sold with entry, subject only to the Lease, on the Date of Entry.

**6 No Warrantice**

Neither the Seller nor the Administrators grant any warrantice and any warrantice, express or implied by operation of law or otherwise on the part of the Seller or the Administrators, is expressly excluded.

**7 No Personal Liability**

The Administrators execute this disposition solely as agent for the Seller and shall incur no personal liability of whatsoever nature (whether directly or indirectly, express or implied) and howsoever arising (including no personal liability of the Administrators which would arise in terms of the Insolvency Act 1986 or otherwise); Any claim which may be or become competent to the disponent arising directly or indirectly herefrom will only be made against the Seller and not against the Administrators personally and any such claim will be an ordinary unsecured claim against the Seller and will be limited to the Price: IN WITNESS WHEREOF

**SCHEDULE 4**  
**BANK RELEASE**

We, **REDWOOD BANK LIMITED**, a company incorporated in England and Wales with registered number 09872265 whose registered office is at Suite 101, The Nexus Building, Broadway, Letchworth Garden City SG6 3TA (the "**Lender**") CONSIDERING THAT the Lender has been requested by **PROTECTOR NUMBER 1 LIMITED (IN ADMINISTRATION)**, incorporated under the Companies Acts (Registered Number 11250160) and having their Registered Office at formerly at Beario, Old Fire Station Enterprise Centre, Salt Lane, Salisbury, Wiltshire, SP1 1DU and now at c/o FRP Advisory Trading Limited, Derby House, 12 Winckley Square, Preston, PR1 3JJ (the "**Borrower**") acting by **GARY HARGREAVES**, FRP Advisory Trading Limited, Derby House, 12 Winckley Square, Preston PR1 3JJ, **PHILIP DAVID REYNOLDS**, FRP Advisory Trading Limited, 2nd Floor, 110 Cannon Street, London EC4N 6EU and **MICHELLE ELLIOT**, FRP Advisory Trading Limited, Level 2, The Beacon, 176 St Vincent Street, Glasgow G2 5SG appointed as joint administrators of the Seller on 3 April 2023 (who act as agents of the Borrower and without personal liability) to grant these presents and the Lender has agreed to do so HEREBY DISCHARGE a Standard Security for all sums due and to become due granted by the Borrower in favour of the Lender registered in the Land Register of Scotland under Title Number STG19506 on 6 April 2020: IN WITNESS WHEREOF

**SCHEDULE 5**  
**NOTICE OF CHANGE OF LANDLORD**

To:

Scottish Sea Farms Limited (Registered Number 00958001)

c/o Shepherd and Wedderburn LLP

Octagon Point

5 Cheapside

London

EC2V 6AA

Dear Sirs

Protector Number 1 Limited (in Administration)

Second Floor Office, East Wing, Laurel House, Laurelhill Business Park, Stirling, FK7 9JH (the **Property**)

On behalf of **PROTECTOR NUMBER 1 LIMITED (IN ADMINISTRATION)**, incorporated under the Companies Acts (Registered Number 11250160) and having their Registered Office at formerly at Beario, Old Fire Station Enterprise Centre, Salt Lane, Salisbury, Wiltshire, SP1 1DU and now at c/o FRP Advisory Trading Limited, Derby House, 12 Winckley Square, Preston, PR1 3JJ ("**Landlords**"), acting by its joint administrators **GARY HARGREAVES**, FRP Advisory Trading Limited, Derby House, 12 Winckley Square, Preston PR1 3JJ, **PHILIP DAVID REYNOLDS**, FRP Advisory Trading Limited, 2nd Floor, 110 Cannon Street, London EC4N 6EU and **MICHELLE ELLIOT**, FRP Advisory Trading Limited, Level 2, The Beacon, 176 St Vincent Street, Glasgow G2 5SG all acting as agents of the Landlord without personal liability ("**Administrators**") we intimate to you (the **Tenants**) that, as from [●] 2023, the Landlords acting by the Administrators have sold their interest as your landlords in the Property to [●] (the "**Purchaser**").

Future rent demands will be issued to you by or on behalf of the Purchaser and future communications concerning any matter arising from the letting (other than formal notices) should be addressed to the Purchaser's managing agents, namely [●]

Formal notices should still be served in accordance with the provisions of your lease.

The Administrators act as agents for and on behalf of the Landlord and neither they, their firm, partners, employees, agents, advisers nor their representatives shall incur liability whether personal or otherwise whatsoever under or in relation to this letter or the Property. The exclusion of liability set out in this paragraph shall arise and continue notwithstanding the termination of the agency of the Administrators before or after signing this letter and shall operate as a waiver of any claims in tort and/or delict as well as under the laws of contract but excluding fraud or wilful misconduct. The Administrators, their firm and their representatives shall be entitled to rely on, enforce and enjoy the benefit of this paragraph as if they were a party to this letter.

This letter is enclosed in duplicate. Kindly post the duplicate, with the docquet on it duly signed, to [●] the solicitors acting for the Purchaser.

Yours faithfully

**Member, For and on behalf of Morton Fraser LLP**

**Agents for Protector Number 1 Limited (In Administration) acting by its joint administrators**

..... 2023

We acknowledge receipt of the notice of which the above is a duplicate.

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For and on behalf of the Tenants

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Agents for and on behalf of the Purchaser