EXCLUSIVITY AGREEMENT for asset sales/purchases (SCOTLAND)

**PARTIES**

1. [NAME OF COMPANY] (incorporated and registered in [England and Wales] OR [Scotland] under company registration number [COMPANY NUMBER]), the registered office of which is at [REGISTERED OFFICE ADDRESS] (the **"Seller"**); and
2. [NAME OF COMPANY] (incorporated and registered in [England and Wales] OR [Scotland] under company registration number [COMPANY NUMBER]), the registered office of which is at [REGISTERED OFFICE ADDRESS] (the **"Buyer"**).

**RECITAL**

This agreement relates to the property known as [                                                             ] (the **"Property"** and this shall be deemed to include any interest deriving its value from the Property) and to the proposed sale of the Seller's interest in the Property (the **"Transaction"**).

**IT IS AGREED AS FOLLOWS:**

# EXCLUSIVITY period

This agreement begins on the date of last execution of this agreement and, subject to clause 4, expires at 5 p.m. on [                                                ] (the **"Expiry Date"**).

# Seller's OBLIGations

## In consideration of the Buyer's undertakings given in and expenses incurred in connection with this agreement, and until this agreement expires, the Seller shall not:

### send out any offer to sell, title or any other information in connection with any proposed disposal of the Property or the Transaction (nor authorise these to be sent out) to anyone other than to the Buyer's solicitors;

### conduct any discussions or enter into any commitment with any third party in connection with any proposed disposal of the Property;

### permit any person other than the Buyer (or a person acting on the Buyer's behalf) to view or obtain a survey of the Property;

and the Seller shall procure that no third party takes any steps prohibited by this clause 2.1 on its behalf.

## The Seller shall:

### immediately instruct its solicitors to promptly (and in accordance with any timetable set out in the heads of terms for the Transaction or as otherwise agreed between the parties):

#### send the draft offer to sell and title documentation to the Buyer's solicitors;

#### deal with proposed amendments or additions to the offer to sell; and

#### provide answers to enquiries;

### promptly provide its solicitors with all documents and information reasonably necessary to enable its solicitors to provide answers to the Buyer's enquiries.

# BUYER's Obligations

## In consideration of the Seller undertaking to comply with the Seller's obligations in this agreement, and until this agreement expires, the Buyer shall promptly (and in accordance with any timetable set out in the heads of terms for the Transaction or as otherwise agreed between the parties):

### instruct surveyors to carry out a survey and/or valuation of the Property;

### propose any required amendments or additions to the offer to sell following receipt of the draft offer to sell and title documentation by the Buyer's solicitors (but the Buyer will still be entitled to propose further amendments or additions in the light of documents or information received after that time); and

### raise all substantive enquiries (but the Buyer will still be entitled to raise further enquiries relating to information or documents received after that time).

# Duration of this agreement

## For the purposes ofclause 4.2.1, "**Business Day**" means a day other than Saturday, Sunday or a day on which banks are authorised to close in [Edinburgh, Glasgow and London] for general banking business.

## This agreement will expire on the earliest of the following:

### the Buyer failing to comply with its obligations provided always that the Seller shall serve written notice on the Buyer specifying the non-compliance and the Buyer shall have three Business Days to remedy this (where the non-compliance is capable of remedy) to the satisfaction of the Seller acting reasonably;

### the Buyer deciding that it no longer wishes to proceed with the Transaction (in which event the Buyer shall immediately inform the Seller by written notice of that decision); and

### the Expiry Date.

## On expiry of this agreement both parties will then be released from any further obligations but without prejudice to any antecedent breach of either party of its obligations in this agreement.

# miscellaneous

## The terms of this agreement may only be amended or modified by written agreement between the Seller and the Buyer executed in accordance with Section 3 or Sections 9B and 9C of the Requirements of Writing (Scotland) Act 1995 the Requirements of Writing (Scotland) Act 1995.

## This agreement is personal to the parties and neither party shall assign, transfer, charge or deal in any other manner with this agreement or any of its rights under it nor purport to do any of the same.

## This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by the law of Scotland.

## The Seller and the Buyer irrevocably agree that the courts of Scotland have exclusive jurisdiction to determine any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

IN WITNESS WHEREOF these presents consisting of this and the preceeding 2 pages are executed as follows:

They are signed for and on behalf of the said [**COMPANY**]

at…………………………………………………………… (insert place of signing)

on…………………………………………………………… (insert date of signing)

by…………………………………………………………… (signature)

……………………………………………………………… (print full name)

Director/Company Secretary/Authorised Signatory \*

by…………………………………………………………… (signature)

……………………………………………………………… (print full name)

Director/Authorised Signatory/Witness \*

…………………………………………………………… (address of witness if used)

……………………………………………………………

\* Please delete as applicable

They are signed for and on behalf of the said [**COMPANY**]

at…………………………………………………………… (insert place of signing)

on…………………………………………………………… (insert date of signing)

by…………………………………………………………… (signature)

……………………………………………………………… (print full name)

Director/Company Secretary/Authorised Signatory \*

by…………………………………………………………… (signature)

……………………………………………………………… (print full name)

Director/Authorised Signatory/Witness \*

…………………………………………………………… (address of witness if used)

……………………………………………………………

\* Please delete as applicable