



## Registration of a Charge

LLP name in full: **CABOT HIGHLANDS LLP**

LLP Number: **SO300920**



Received for filing in Electronic Format on the: **14/11/2023**

XCGAUPMB

### Details of Charge

Date of creation: **08/11/2023**

Charge code: **SO30 0920 0008**

Persons entitled: **VICI LENDCO UK LLC**

Brief description: **(1) SUBJECTS REGISTERED IN THE LAND REGISTER FOR SCOTLAND UNDER TITLE NUMBER INV20358; (2) SUBJECTS REGISTERED IN THE LAND REGISTER FOR SCOTLAND UNDER TITLE NUMBER INV20357; (3) SUBJECTS CURRENTLY UNDERGOING REGISTRATION IN THE LAND REGISTER FOR SCOTLAND UNDER TITLE NUMBER INV54764; (4) SUBJECTS CURRENTLY UNDERGOING REGISTRATION IN THE LAND REGISTER FOR SCOTLAND UNDER TITLE NUMBER INV52730. FOR MORE DETAILS PLEASE REFER TO THE INSTRUMENT.**

**Contains negative pledge.**

### Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

### Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 AS APPLIED BY THE LIMITED LIABILITY PARTNERSHIPS (APPLICATION OF COMPANIES ACT 2006) REGULATIONS 2009 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL  
INSTRUMENT.**

Certified by:

**JONATHAN HEANEY**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

LLP number: SO300920

Charge code: SO30 0920 0008

The Registrar of Companies for Scotland hereby certifies that a charge dated 8th November 2023 and created by CABOT HIGHLANDS LLP was delivered pursuant to Part 25 of the Companies Act 2006 as applied by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 on 14th November 2023 .

Given at Companies House, Edinburgh on 17th November 2023

The above information was communicated by electronic means and authenticated  
by the Registrar of Companies under the Limited Liability Partnership  
(Application of the Companies Act 2006) Regulations 2009 SI 2009/1804



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

For and on behalf of Burness Paull, I certify that this is  
a true copy of an original document, save for the  
information redacted pursuant to section 859G of the  
Companies Act 2006.

STANDARD SECURITY

EXECUTION VERSION

by

CABOT HIGHLANDS LLP

in favour of

VICI LENDCO UK LLC

Property: Land at Balnaglack Farm, Dalcross, Inverness (also known as Castle Stuart,  
Inverness)

In this **STANDARD SECURITY** the words listed below have the following meanings:-

**Lender:** **VICI Lendco UK LLC** (a Delaware limited liability company with registered number 7669365) and having its registered office at c/o VICI Properties Inc., 535 Madison Ave, 20th Fl., New York, New York 10022, USA

**Borrower:** **Cabot Highlands LLP** (a limited liability partnership, registered number SO300920) (formerly called Castle Stuart Golf LLP, their name having changed conform to certificate of incorporation on change of name issued by the Registrar of Companies on 19 April 2023) having its registered office at Cabot Highlands, Dalcross, Inverness, Scotland, IV2 7JL

**Property:** Land at Balnaglack Farm, Dalcross, Inverness (also known as Castle Stuart, Inverness) as more fully described in Part 1 of the Schedule.

**Standard Conditions:** The Standard Conditions in Part 2 of the Schedule to this Standard Security.

**Schedule:** The Schedule in four parts annexed and signed as part of this Standard Security.

**Secured Liabilities:** has the meaning given to it in the Standard Conditions.

1. The Borrower hereby binds itself and its successors and executors whomsoever to pay and discharge the Secured Liabilities to Lender.
2. The Borrower undertakes to comply fully with the Standard Conditions.
3. The Borrower, in security of the Secured Liabilities, hereby GRANTS a Standard Security in favour of the Lender over the Property.
4. The Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 as amended and varied by (a) the Redemption of Standard Securities (Scotland) Act 1971 and (b) the Standard Conditions, and any lawful variation thereof operative for the time being, shall apply.
5. The Standard Security hereby granted is subject to the heritable security (if any) and any agreement regulating its ranking detailed in Part 3 of the Schedule.
6. The Borrower grants warrandice, subject to the heritable security (if any) detailed in Part 3 of the Schedule and to the leases of the Property (if any) detailed in Part 4 of the Schedule.
7. The Borrower consents to the registration of this Standard Security for execution.

8. This Standard Security shall be governed by and construed in accordance with Scots law.
9. For the purposes of Condition 18 of the Standard Conditions, the service address of Lender is c/o VICI Properties Inc., 535 Madison Ave., 20<sup>th</sup> Fl., New York, New York 10022, USA.

IN WITNESS WHEREOF these presents consisting of this and the preceding page together with the Schedule (in four parts) annexed are executed by the Borrower as follows:

Subscribed for and on behalf of **CABOT HIGHLANDS LLP**

by:

[Redacted Signature]

~~\* Authorised Signatory~~ / Member

STUART MCCOM

Full Name of Signatory (Please Print)

at: PERTH

on: 26 OCTOBER 2023

before

[Redacted Signature]

Witness (Signature)

LAUREN ASHLEIGH PIROUET

Witness Name (Please Print)

THORNTONS LAW LLP,

Witness Address

WHITEFRIARS HOUSE, PERTH, PH2 0PA

\*Please delete as applicable

**Schedule referred to in the foregoing Standard Security by Cabot Highlands LLP in favour of VICI Lendco UK LLC**

**PART 1**

(One) ALL and WHOLE the tenant's interest in the Lease of subjects at Balnaglack Farm, Dalcross, Inverness, between Moray Estates Development Company Limited and Castle Stuart Golf LLP dated 1 March 2007, as subsequently varied, being the subjects registered in the Land Register of Scotland under Title Number INV20358;

(Two) ALL and WHOLE the tenant's interest in the Lease of subjects at Balnaglack Farm, Dalcross, Inverness, between Moray Estates Development Company Limited and Castle Stuart Golf LLP dated 1 March 2007, being the subjects registered in the Land Register of Scotland under Title Number INV20357;

(Three) ALL and WHOLE the tenant's interest in the Lease of subjects at Balnaglack Farm, Dalcross, Inverness, between Moray Estates Developments Limited and Cabot Highlands LLP dated 17 and 18 May 2023, being the subjects currently undergoing registration in the Land Register of Scotland under Title Number INV54764; and

(Four) ALL and WHOLE the tenant's interest in the Lease of subjects at Balnaglack Farm, Dalcross, Inverness, between Moray Estates Developments Limited and Castle Stuart Golf LLP dated 25 July 2022, being the subjects currently undergoing registration in the Land Register of Scotland under Title Number INV52730.

## PART 2

### Standard Conditions

#### 1. Definitions and Interpretation

##### 1.1 In the interpretation of this deed:

- (a) **"Act"** means the Conveyancing and Feudal Reform (Scotland) Act 1970 as amended by the Redemption of Standard Securities (Scotland) Act 1971 and any further amendment to it or reenactment or replacement of it from time to time.
- (b) **"Borrower"** means any and every person who is referred to in the Standard Security as the Borrower and also:
  - (i) the Borrower's successors and personal representatives; and
  - (ii) any person who claims any right or interest from or through the Borrower in the Secured Liabilities owed by the Borrower.
- (c) **"Conditions"** means the conditions contained in this deed and the Standard Conditions (as varied and extended by this deed), and reference to a numbered Condition is to the relevant Condition in this deed.
- (d) **"Existing Security"** means any existing fixed or floating charge (including standard securities) granted by the Borrower or any other Owner registered or in course of registration in the Land Register of Scotland or in the Register of Charges in relation to or otherwise affecting the Property disclosed in writing to the Lender.
- (e) **"Expense"** or **"Expenses"** mean the total of the following:
  - (i) any commission and other charges which Lender may from time to time charge to the Borrower in the ordinary course of Lender's business in respect of the Secured Liabilities or any service provided by Lender to the Borrower;
  - (ii) any costs, charges, premiums, fees and expenses incurred from time to time by Lender under the Conditions and which are either repayable by the Borrower under the Conditions or are incurred in the exercise by Lender of its powers under the Conditions;
  - (iii) any costs, charges and expenses incurred by Lender in connection with Lender doing anything to protect the Standard Security or to obtain possession of or sell or deal (in any other way allowed by the Conditions) with the Property;

together with Value Added Tax upon such sums where appropriate.



- (f) **"Insured Risks"** means fire, explosion, collision, impact, storm, flood, lightning, landslip, subsidence, burst pipes, terrorist acts and such other risks as Lender may from time to time require.
- (g) **"Interest"** means any sum of money payable to Lender by way of interest upon the Secured Liabilities.
- (h) **"Landlord"** means the landlord or licensor under any Lease.
- (i) **"Leases"** means the (i) the tenant's interest in the Property subject to the Standard Securities granted (or to be granted) in connection with the Loan Agreement and (ii) any subleases granted in respect of the leases referred to with respect to which Owner is the landlord.
- (j) **"Loan"** has the meaning ascribed to it in the Loan Agreement.
- (k) **"Loan Agreement"** means the Loan Agreement between Lender and Borrower dated on or about the date of the Standard Securities setting out the basis upon which Lender will make a Loan to the Borrower, and includes any revision or amendment to, or substitution for or variation or novation of such letter or document.
- (l) **"Lender"** has the meaning ascribed in the Standard Securities and also successors and assignees, including any person:
  - (i) who claims any title to or interest in the Standard Security from Lender;
  - (ii) to whom Lender's interest in all or part of the Standard Security is transferred; or
  - (iii) to whom the business of Lender is transferred.
- (m) **"Lender Group"** means Lender, any affiliate of Lender, any subsidiary of either of them, any holding company of either of them and any subsidiary of any such holding company.
- (n) **"Occupier"** means any and every person who is, or is to be, in occupation of all or part of the Property and who has postponed his rights in the Property to Lender.
- (o) **"Option to Extend"** means an option to extend the relevant Leases to terminate on 19 June 2141 in terms of documentation disclosed in writing to the Lender.
- (p) **"Otherwise Permitted Sublease"** means a sublease granted by the Owner which does not require consent of the Landlord under the relevant Lease.
- (q) **"Owner"** means, in relation to any Standard Security granted to the Lender as security for the Secured Liabilities, the party who has granted such security (whether the Borrower or otherwise) and also:

- (i) the Owner's successors and personal representatives; and
  - (ii) any person to whom the Owner's interest in all or part of the Property secured under such Standard Security has been transferred or otherwise disposed of without such interest first being released from the effect of the Standard Security.
- (r) **"Property"** means the heritable or long lease property secured to Lender by a Standard Security as security for the repayment of the Secured Liabilities together with any other assets or rights secured by any such Standard Security (and where the Conditions require an Owner to comply in relation to the "Property" that shall mean in relation to the Property in respect of which such Owner has granted such Standard Security).
- (s) **"Quotas"** means wholesale milk quota or direct sales milk quota as defined in The Dairy Produce Quotas (Scotland) Regulations 2005 and Single Farm Payment Scheme payment entitlements and any other quotas, entitlements or immunities, howsoever called, related to agriculture and/or the management of rural land which may be introduced from time to time.
- (t) **"Rental Sums"** means all rents, profits, income, fees and other sums at any time payable by any lessees, sub-lessees, tenants or licensees of the Property to the relevant Owner pursuant to the terms of any agreements for lease, leases, sub-leases, tenancies or licences to which all or any part of the Property is subject but not any sums payable in respect of services provided to such lessees, sub-lessees, tenants or licensees or payable in respect of insurance premiums or reasonable professional fees or expenses.
- (u) **"Secured Liabilities"** means all or any money and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to Lender by the Borrower, whether actually or contingently, solely or jointly and whether as principal, guarantor, cautioner or surety, including any money or liabilities of the Borrower to a third party which have been assigned or novated to or otherwise vested in Lender, and including discount, commission and other lawful charges or expenses which Lender may in the course of its business charge or incur in respect of any of those matters or for keeping the Borrower's account, together with Interest upon them and Expenses relating to them.
- (v) **"Standard Conditions"** means the Standard Conditions set out in Schedule 3 to the Act.
- (w) **"Standard Security"** means a standard security (in terms of the Act) granted by an Owner in favour of Lender over its interest in the (or any part of the) Property to secure the repayment of the Secured Liabilities to Lender and
- (x) **"Standard Securities"** means all such Standard Securities.

## 1.2 References to:

- (a) words denoting any gender shall include all genders;
- (b) words importing the singular shall include the plural and vice versa;
- (c) any person are to be construed to include references to a corporation, firm, company, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity;
- (d) the Conditions also includes a reference to any document into which the Conditions are incorporated by implication;
- (e) statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant legislation;
- (f) "including" shall not be constructed as limiting the generality of the words preceding it;
- (g) headings in the Conditions are for ease of reference only and are not to affect the interpretation of the Conditions.

1.3 If there is any conflict between the terms of this deed and the Standard Conditions, the terms of this deed shall (so far as permitted by law) prevail.

## **2. Interest**

2.1 The Borrower will pay to Lender Interest upon the Secured Liabilities in accordance with the Loan Agreement.

2.2 To the extent that either the Loan Agreement does not deal with the payment of Interest, or there is no Loan Agreement or other arrangement as to interest for a particular Loan, then the Borrower will pay interest on such Loan at the Lender usual rate and on the Lender usual basis at that time and from time to time for that type of Loan and such Interest will be calculated and compounded according to the usual Lender practice for that type of Loan.

2.3 The Borrower will pay Interest to Lender both before and after:

- (a) Lender has demanded repayment of all or any part of the Secured Liabilities; and
- (b) Lender has obtained any decree for the repayment of all or any part of the Secured Liabilities.

## **3. Repayment**

The Borrower will repay to Lender the Secured Liabilities in accordance with the

provisions of the Loan Agreement.

**4. Insurance**

- 4.1 While a Standard Security is in force, the Owner will keep the Property insured with a United Kingdom insurance company acceptable to Lender against loss or damage by any of the Insured Risks in a sum equal to the higher of (a) the market value of the Property and (b) the full reinstatement value of the Property for the time being and upon an index-linked basis (including (i) architects', surveyors' and other professionals' fees (ii) expenses of demolition and site clearance (iii) where the Property is let, an amount equal to the loss of rent under the lease for three years or such longer period as Lender may require and (iv) Value added Tax (if any) which may become due on such amounts).
- 4.2 Any such insurance policy shall be taken out at the option of Lender either:
- (a) in the joint names of Lender and the Owner; or
  - (b) with the interest of Lender noted upon such insurance policy, whether or not as a loss payee;
  - (c) and in either case, the Owner will ensure that such insurance policy contains such provisions for the protection of Lender as Lender may from time to time reasonably require.
- 4.3 The Owner will pay all premiums and other money due and payable under such insurance and provide premium receipts or any other evidence of payment promptly upon request to do so by Lender.
- 4.4 The Owner will not do, or allow to be done, nor omit to do, anything on the Property which might prejudicially affect any insurance policy in respect of the Property.
- 4.5 If the Owner is required under the Lease or any lease of all or part of the Property to insure the Property on certain terms or to reimburse to the Landlord any insurance premiums spent by the Landlord, then, if the Owner complies fully and promptly with such requirements, the Owner will be deemed to have complied with the provisions of Condition 4.1 if such insurance, whether by the Owner or the Landlord, extends to cover at least the Insured Risks in at least the amount set out in Condition 4.1.
- 4.6 If the Property is insured in accordance with Condition 4.5, then the Owner will on request from Lender from time to time produce proof satisfactory to Lender that the provisions of Condition 4.5 have been complied with.
- 4.7 If the Owner does not:
- (a) take out and keep up such insurance policy; or
  - (b) pay the premiums and other money promptly; or

(c) ensure that the Landlord insures the Property in accordance with Condition 4.5;  
or

(d) prove to Lender that the premiums and other such money have been paid;

then Lender may itself take out or renew such insurance policy in any sum and on any terms which Lender may in its discretion think fit and any money spent by Lender under this Condition shall be an Expense.

4.8 The Owner must notify Lender in writing as soon as possible of any event which may give rise to a claim under any insurance policy relating to the Property.

4.9 Subject to the provisions of the Leases or any lease of all or part of the Property, all money payable to the Borrower or the Owner under any insurance policy in respect of any loss or damage to the Property must be paid to Lender and, at the option of Lender, will be used either:

(a) to repair, reinstate or replace the loss or damage in respect of which such money is paid; or

(b) in repaying the Secured Liabilities;

and in the meantime will be paid into such account of the Owner with Lender as Lender may require and the Owner will promptly irrevocably instruct any insurer of a policy to pay the proceeds of it to Lender and undertakes to Lender to repeat that instruction if Lender requires.

4.10 At any time after Lender has demanded that the Borrower repay the Secured Liabilities, Lender may insure the Property in such sum, upon such terms, against such risks and with such insurance it, and the cost of doing so shall be an Expense.

## **5. The Owner's Leasing Powers**

5.1 The Owner will not without the prior written consent of Lender:

(a) grant or accept the surrender of any lease or tenancy of all or part of the Property, including any Otherwise Permitted Sublease; or

(b) extend, renew, vary or terminate either the Lease or any lease or tenancy granted by the Owner or his predecessors in title in favour of any third party of all or part of the Property save that Lender shall not unreasonably withhold its consent to Owner's exercise (and, promptly upon Lender's request, Owner shall exercise) an Option to Extend in respect of the Lease (or as the case may be any or all of the Leases) in respect of which the tenant's interest forms the Property secured by the relevant Standard Security provided that (i) Owner has proven to Lender's satisfaction that Owner has paid (or has made satisfactory arrangements to pay) the applicable extension fee and all related cost and

expenses and (ii) Lender is otherwise satisfied that the exercise of such option does not impair Lender's position;

- (c) give any consent to the assignation, transfer or sub-let of any such lease or tenancy;
- (d) give up the possession of all or any part of the Property or grant any licence or right to occupy all or any part of the Property; or
- (e) agree to do any of such things (save where Lender's consent is not required as expressly set forth in this clause 5.1).

5.2 The Owner will at his own expense upon written request from Lender at such times as Lender shall think fit inform Lender in writing who is in occupation of each part of the Property and upon what terms.

## **6. Further Security**

The Owner will, at his own cost and whenever required by Lender, do anything and sign and deliver all such deeds, instruments, notices or other documents of any kind, in such form as Lender may require, in order to enhance or perfect Lender's security under the Standard Security, or to preserve the Property or to enable Lender either to enforce the Standard Security or to exercise any of the powers and rights given by the Conditions or by law to Lender.

## **7. Intentionally omitted**

## **8. The Borrower's and the Owner's Obligations**

The Borrower and the Owner each agree with Lender as follows:

- 8.1 Subject to clause 5.1(a) of the Loan Agreement, not to create or attempt to create or allow to be created or to exist any security, charge (whether fixed or floating) or lien of any kind over the Property (except in favour of Lender) without the prior written consent of Lender.
- 8.2 Not to sell, transfer, lease or otherwise dispose of all or any part of or interest in the Property (or attempt or agree to do any such thing), or agree to do so, whether absolutely or in security, without the prior written consent of Lender.
- 8.3 Without delay and in a proper manner and in any event within such period of time as Lender may require and to Lender's satisfaction to complete any buildings in the course of construction at any time upon the Property in accordance with the requirements of any planning permission or other consent for their carrying out and to the satisfaction of any relevant authorities.

- 8.4 To repair and keep in good and substantial repair, and if necessary to rebuild or reinstate, all buildings or other erections, any services for such buildings and any fixtures at any time in or upon the Property.
- 8.5 Not, without the prior written consent of Lender, to make any structural alteration to any buildings or other erections on the Property or to apply for any planning consent for the development or change of use of the Property and not to do or allow or omit to be done anything which might adversely affect the value or marketability of the Property.
- 8.6
- (a) To allow Lender and any person authorised by Lender to enter the Property at all reasonable hours in the daytime following reasonable prior written notice to examine the state and condition of the Property and to leave at the Property notice in writing of all defects and repairs which that person reasonably considers need to be carried out to the Property to preserve the value of Lender's security.
  - (b) Immediately after receiving such notice, to carry out all works stipulated in such notice and if the Owner shall fail to carry out all or some of such works, Lender shall be entitled, with or without workmen, to enter the Property at any time to carry out such works, and any money spent by Lender in carrying out such works shall be an Expense.
- 8.7 To comply with every obligation incumbent on the party in right of the tenant's interest in the Leases whether imposed under the title deeds or otherwise, including, if the Property is held on long lease, to pay all rents and to enforce the performance by the Landlord of its obligations under the Lease.
- 8.8 Not, without the prior written consent of Lender in its sole discretion, to agree to any amendment, supplement, waiver, surrender or release of any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting its title to the Property.
- 8.9 To promptly take all such steps as may be necessary to enable the security created by the Standard Security to be registered, where appropriate, in the Land Register of Scotland.
- 8.10 Immediately upon receipt to pass on to Lender a copy of any notice received by the Owner from any person (including the Landlord if the Property is held on long lease) and at the Owner's expense to take all such actions (including legal proceedings) as Lender may reasonably require in connection with such notices and if the Owner fails to take such actions, Lender shall be entitled to take such action (including legal proceedings) as it thinks fit in connection with such notice, whether or not in the name of the Owner, and any money so spent by Lender shall be an Expense.

- 8.11 To enforce the prompt payment of the rents payable by any tenant, licensee or occupant of all or any part of the Property and to ensure that such tenant, licensee or occupant complies with all of the terms of any agreement under which he so leases or occupies the Property.
- 8.12 To take all necessary steps to ensure that each rent review imposed by any occupational sublease or licence of all or any part of the Property is resolved as quickly as possible for the best rent reasonably obtainable.
- 8.13 To comply in all material respects with the terms of all applicable laws and regulations including (without limitation) all environmental laws, legislation relating to public health, town & country planning, control and handling of hazardous substances or waste, fire precautions and health and safety at work.
- 8.14 Immediately upon receipt to pass on to Lender a copy of any notice or proposals for a notice or order served on the Owner under any legislation, regulation or byelaw by any competent authority and to give notice to Lender immediately on becoming aware of any other matter which will or might adversely affect the value of the Property and, if so required by Lender, to make or join in making such representations in respect of any such matters as Lender may reasonably require and any costs incurred by Lender in this regard shall be an Expense.
- 8.15 If the Property is held on long lease, immediately upon acquiring any extended lease or the legal title to the Property, or an interest in the legal title to the Property, whether under any Act of Parliament or by any other means, the Owner will:
- (a) deliver (as the case may be) copies of such extended lease or the title deeds to the Property or the documents evidencing his interest in the legal title to the Property to Lender; and
  - (b) if required by Lender execute at the Borrower's cost a Standard Security in favour of Lender in such form as Lender may require over such extended lease, title to the Property or interest in such title (as the case may be) as security for the Secured Liabilities.
- 8.16 Subject to the rights of any prior security holder, promptly on request by Lender to deposit with Lender copies of all title deeds (including documentation relating to the Leases, or extracts thereof), planning permissions and insurance policies relating to the Property so far as held by the Owner or for the benefit of Owner or those accessible by the Owner including from any public register or online portal or from the Landlord.
- 8.17 Not to create or permit to arise any overriding interest (as defined in Section 28(1) of the Land Registration (Scotland) Act 1979) affecting the Property (or any part thereof).
- 8.18 Not to deal with any claim for compensation, however arising, in respect of all or part of the Property other than in accordance with the requirements of Lender, and if required by Lender to pay to Lender in reduction of the Secured Liabilities all or part of such compensation.



- 8.19 If the Property is, now or at any time while the Standard Security is in force, used for the purposes of agriculture or forestry, to maintain the Property in accordance with the then current standards of good husbandry from time to time.
- 8.20 If the Property is, now or at any time while the Standard Security is in force, used for the purposes of retailing, to manage the Property in accordance with the principles of good estate management and to obtain as good a mix of tenants and goods sold as is reasonably practicable.
- 8.21 If any works of construction or refurbishment are at any time carried out upon the Property, at the request of Lender to assign to Lender as further security for the Secured Liabilities, and in such form as Lender shall require:
- (a) the benefit of all the Owner's rights and claims with regard to such work against the building contractor and any other person carrying out services for the Owner in connection with such works, and their respective subcontractors and suppliers; and/or
  - (b) any rights, licences, warranties, guarantees or maintenance agreements in connection with such works of which the Owner has the benefit.
- 8.22 Not without the prior written consent of Lender to do or allow to be done or omit to do on the Property anything which might lead either to the Owner incurring any liabilities or committing any offence under the Environmental Protection Act 1990 or incur any other liability as a result of the pollution of the Property or to the Property being entered upon any registers of land which may have been put to a contaminative use under that Act and further to send copies to Lender of any notice received in connection with environmental matters relating to the Property.
- 8.23 If the Property has the benefit of any rights under any agreement with the National House-Building Council or other similar body or under any arrangement giving similar rights not to deal with any claim under such agreement other than in accordance with the reasonable requirements of Lender, and if required by Lender either to pay to Lender in reduction of the Secured Liabilities the proceeds of any such claim or to use such proceeds in reinstatement of the Property.
- 8.24 Not to change its business in any way which would result in it becoming a 'relevant financial institution' for the purposes of clause 2 of The Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014. The Borrower and the Owner shall promptly provide Lender with copies of any information that Lender may from time to time reasonably request in connection with their status in respect of this Condition 8.24.
- 8.25 Not to carry on any business which would constitute 'excluded activities' in terms of Part 2 of the Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014.
- 8.26 The Owner must:

- (a) comply with its obligations under any long lease affecting the Property; and
  - (b) use reasonable endeavours to procure the landlord complies with its obligations under such long lease (including the Leases).
- in a proper and timely manner.

8.27 The Owner may not (without the consent of Lender):

- (a) Enter into or agree to any amendment, supplement, waiver, surrender or release of any long lease affecting Property;
- (b) exercise any right to break, determine or extend such long lease;
- (c) agree to any rent review in respect of such long lease (where agreement of the Owner is required under the Lease to the amount of any such reviewed rent); or
- (d) do or allow to be done any act as a result of which the long lease (including the Leases) may become liable to irritancy or otherwise be terminated.

## **9. Lender Powers and the Enforcement of the Standard Security**

9.1 At any time after Lender has demanded the repayment of the Secured Liabilities the Borrower and the Owner shall be deemed to be in default within the meaning of Standard Condition 9(1)(b), and, insofar as the law allows, Lender may:

- (a) call up and enforce the Standard Security in accordance with the provisions of the Act;
- (b) exercise all of the powers conferred upon it as heritable creditor by the Act as extended or varied by the Conditions;
- (c) take possession of the Property (and in so doing shall be deemed to be the agent of the Owner) and to the extent that they are not charged by the Owner in the Standard Security Lender may at the expense of the Owner and as the agent of the Owner remove, store, preserve, sell or otherwise dispose of any moveable items and any livestock at the Property without being liable to the Owner for any loss in connection with such disposal and Lender will pay the net proceeds of sale of such moveable items and livestock (after payment of any costs incurred in connection with such removal, storage, preservation and disposal) to the Owner on his demand and in the case of an individual Lender shall not have the right to retain or to set off such proceeds of sale against the Secured Liabilities;
- (d) retire all bills or notes which are under discount with Lender and to which the Borrower is a party in any capacity without any deduction.

9.2 Lender shall have all of the powers given to heritable creditors by the Act, and in addition to, but without limiting such general powers Lender shall have power in the name of the Owner or otherwise to do the following things:

- (a) to take possession of, collect and get in all or any part of the Property and all Rental Sums and other income of the Property;
- (b) to commence and/or complete any building works on any part of the Property;
- (c) to apply for and obtain any permissions, approvals, consents or licences as it may in its absolute discretion think fit;
- (d) to acquire any further property, assets or rights whatsoever, whether by way of purchase, lease or otherwise and to grant security over any such further property, assets or rights;
- (e) to borrow money for any purpose specified in this Condition from Lender or any other person upon the security of the Property or otherwise;
- (f) to provide such services for tenants and generally to manage the Property in such manner as it shall think fit;
- (g) if the Property is held on long lease, to vary the terms of or surrender the Lease and/or to take a new lease of all or any part of the Property on such terms as it shall think fit, and so that such new lease shall be secured to Lender on the terms of the Standard Security so far as applicable and to execute a Standard Security over any such new lease in favour of Lender in such form as Lender may require;
- (h) to operate and manage any business or undertaking conducted at the Property;
- (i) to sell (whether by way of auction or by private contract or by any other means), let, or grant licences of, and to vary the terms of or terminate or accept surrenders of leases or tenancies of all or any part of the Property or grant options over all or any part of the Property, in such manner and for such term, with or without any payment, with such rights relating to the other parts of the Property, and generally upon such terms and conditions (including the payment of money) as Lender shall think fit in its absolute discretion;
- (j) to accept payment for any such sale, lease, licence or option in a lump sum or by instalments or in cash or by debentures, securities or any other valuable consideration as Lender shall think fit;
- (k) to establish a company or to purchase any shares in a company to acquire all or any part of the Property or any interest in the Property;
- (l) to make any arrangement or to reach any agreement with regard to any claim which Lender may think fit;

- (m) to carry out all repairs, renewals and improvements to the Property as Lender shall think fit;
- (n) to bring or defend any proceedings in the name of the Borrower or the Owner as the case may be in relation to the Property as Lender shall think fit;
- (o) to appoint, employ or dismiss professional advisers, managers, officers, contractors and agents previously approved in writing by Lender for any of the purposes set out in this Condition including but not limited to the management of the Property and the business of the Owner on such terms as Lender may think fit;
- (p) to exercise on behalf of the Owner all or any of the powers given to landlords or tenants (as the case may be) in respect of the Property but without incurring any liability in respect of the powers so exercised;
- (q) to do all such other acts and things as may be considered by Lender to be incidental to or necessary for any of the powers contained in the Conditions or otherwise to preserve, improve or sell the Property.

9.3 In the event that the Secured Liabilities have become due and payable and the Standard Security has become enforceable the Borrower and the Owner undertake to vacate the Property and to give Lender immediate vacant possession of it after Lender has given the Borrower and/or the Owner (as applicable) seven days' written notice requiring the Borrower and/or the Owner to remove from the Property and the Borrower and the Owner agree that a warrant of summary ejection may proceed against them at the instance of Lender in any Sheriff Court in the area in which the Property is situated at any time after the period of seven days specified in such notice.

9.4 No purchaser or other person dealing with Lender or any agent or delegate thereof shall be obliged or concerned to enquire whether the right of Lender to exercise any of the powers conferred by or referred to in the Conditions has arisen or become exercisable, whether any of the Secured Liabilities remains outstanding or be concerned with notice to the contrary or whether an event has occurred to authorise Lender to act or as to the propriety or validity of the exercise or purported exercise of any such power.

## **10. Application of the Proceeds of the Property**

10.1 All money arising from the enforcement of the Standard Security shall be applied in the following order:

- (a) firstly in discharging all claims ranking in priority to the Standard Security;
- (b) secondly in paying the Expenses;
- (c) thirdly in repaying all or part of the Secured Liabilities in such order as Lender may in its absolute discretion and from time to time determine;

(d) fourthly to the Owner or any other person entitled thereto.

- 10.2 Lender may at any time prior to the repayment of the Secured Liabilities place any money received by Lender under the Standard Security to the credit of a separate or suspense account for so long and in such manner as Lender may decide before using such money in accordance with Condition 10.1.
- 10.3 Subject to Condition 10.1, any money received or realised by Lender from the Borrower under the Standard Security may be applied by Lender to any item of account or liability or transaction in such order or manner as Lender may determine.
- 10.4 Lender shall not be liable to the Owner, whether as heritable creditor in possession or otherwise, in respect of any money which has not actually been received by Lender.

#### **11. Power of Attorney**

- 11.1 Each of the Borrower and the Owner irrevocably and by way of security appoints Lender as the attorney of them, for them and in their name and on their behalf, to execute and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which may be required of the Borrower or the Owner under the Standard Security or may be required or deemed proper in the exercise of any rights or powers conferred on Lender under the Standard Security or otherwise for any of the purposes of the Standard Security.
- 11.2 The Borrower and the Owner each ratifies and confirms and agrees to ratify and confirm whatever the attorney does or purports to do under its appointment under Condition 11.1.

#### **12. Prior Securities**

If there is any security or charge which ranks in priority to the Standard Security over all or any part of the Property, and the person with the benefit of such security or charge does anything to enforce that security or charge against the Property, Lender may repay the money owed under that charge, or arrange for such charge to be transferred to Lender, and the costs of so doing shall be an Expense.

#### **13. The Expenses**

The Borrower shall pay any of the Expenses immediately upon Lender requiring him to do so and until they are paid they will form part of the Secured Liabilities, Interest will be paid upon them, and they will be secured under the Standard Security. This will be without prejudice to any other remedy, lien or security which Lender may from time to time have for the repayment of the Expenses.

#### **14. Continuing Security**

- 14.1 The Standard Security shall (subject to the provisions of Condition 15) be a continuing security for the Secured Liabilities notwithstanding any intermediate payment or

settlement of all or any part of the Secured Liabilities or other matter or thing whatsoever until the Secured Liabilities have been repaid in full and Lender has no further obligation to make any Loan to the Borrower.

- 14.2 The Standard Security shall be in addition and shall not either prejudice or be prejudiced by any other security, guarantee, right or remedy of whatever sort, held by or available to Lender at any time for the Secured Liabilities or any other obligation whatsoever and will not be affected by Lender at any time and from time to time releasing, varying or not enforcing any such other right, remedy or security.

**15. Provisions Relating to the Owner**

If and so long as the Owner is not a Borrower:

- 15.1 If the Borrower is sequestrated or becomes bankrupt, or is wound up, or enters into any arrangement with his creditors:
- (a) the Secured Liabilities shall continue to be owed to Lender until they are actually paid;
  - (b) neither the Owner nor the Occupier shall be entitled to share in any other security held by Lender for the Secured Liabilities or in any money received by Lender on account of the Secured Liabilities until the Secured Liabilities have been fully repaid;
  - (c) any dividends or payments received by Lender from or on behalf of the Borrower shall not affect the right of Lender to recover the whole of the Secured Liabilities from the Property;
  - (d) until the Secured Liabilities have been fully repaid, Lender shall be entitled to prove for the whole debt in the insolvency of the Borrower and to retain any dividends paid to Lender under such insolvency to the exclusion of any rights of the Owner or the Occupier to money from the insolvency of the Borrower.
- 15.2 The Standard Security shall not be released by Lender at any time and from time to time either by giving the Borrower time to pay the Secured Liabilities or waiving the enforcement of any rights that it has against the Borrower.

**16. New Accounts**

- 16.1 Lender may on receiving notice that the Owner has created a security or charge of any kind over or has transferred or disposed of all or part of the Property close the Borrower's account(s) and open a new account(s) with Lender.
- 16.2 Without prejudice to Lender's right to combine accounts, no money paid in or carried to the Borrower's credit in any such new account shall go towards or in any way discharge any part of the amount due to Lender on any such closed account(s).

- 16.3 Even if Lender does not open such new account(s), it shall nevertheless be treated as if it had done so at the time when it received (or was deemed to have received) either of such notices so that from that time all payments made to Lender shall be credited or treated as having been credited to such new account(s) and shall not reduce the amount of the Secured Liabilities.

**17. Waiver**

- 17.1 No failure or delay by Lender in exercising any right or remedy under the Standard Security shall operate as a waiver, and no single or partial exercise shall prevent further exercise of any right or remedy.
- 17.2 Lender may only waive any of its rights under the Standard Security in writing and such waiver may be subject to any conditions which Lender thinks fit. Any such waiver will only apply to the precise circumstances for which it is given.
- 17.3 Lender may from time to time allow time for the payment of any bills of exchange, promissory notes or other securities which have been discounted or received from the Borrower or upon which the Borrower is in any way liable without affecting the liability of the Borrower under the Standard Security.

**18. Notices**

- 18.1 Any communication to be made under or in connection with the Standard Security or the Conditions shall be made in writing and, unless otherwise stated, may be made by fax or letter.
- 18.2 The address of Lender for any communication or document to be made or delivered under or in connection with the Standard Security or the Conditions is its service address as stated in the Standard Security or any substitute service address as Lender may notify to the Borrower and the Owner by not less than five days' notice.
- 18.3 The address of the Borrower or (as the case may be) the Owner for any communication or document to be made or delivered under or in connection with the Standard Security or the Conditions is his usual and last known home or business address (if an individual) or registered office (if a company) at the time such communication or document is made or delivered. The fax number (if any) of the Borrower or the Owner for any communication or document to be made or delivered under or in connection with the Standard Security or the Conditions is the fax number most recently provided to Lender by the Borrower or (as the case may be) the Owner.
- 18.4 Subject to Condition 18.5, any communication made or document made or delivered by one person to another under or in connection with the Standard Security or the Conditions will only be effective:
- (a) if by way of fax, when received in legible form; or



- (b) if by way of letter, when it has been delivered to the relevant address or three days after being deposited in the post postage prepaid in an envelope addressed to the relevant party at that address.

18.5 Any communication or document to be made or delivered to Lender will be effective only when actually received by Lender.

18.6 If either the Borrower or the Owner has died, a notice or demand shall be assumed to have been properly served upon his personal representatives if it is sent to him as though he were still alive.

## **19. Transfer by Lender**

19.1 Lender may at any time (without notice or consent) transfer (a "Transfer") to any other person (the "Transferee") the benefit of the Standard Security and all and any of its rights and interests therein (either absolutely or in security) together with all or any of its rights in respect of the Secured Liabilities and the person to whom the benefit of the Standard Security or the Secured Liabilities is transferred may enforce the Standard Security in the same way as if he had been party to the Standard Security instead of Lender. Following such Transfer the Borrower and (as the case may be) the Owner shall have recourse only to the Transferee in respect of that portion of Lender's obligations transferred to the Transferee.

19.2 The Borrower and (as the case may be) the Owner agree that if Lender has transferred part only of its rights in respect of the Secured Liabilities to any other person, then the Standard Security shall be treated as if it had been given to Lender as trustee for itself and such other person.

## **20. Disclosure of Information**

The Borrower and the Owner irrevocably authorise Lender to pass on to:

- (a) any person to whom Lender has delegated any of its function under the Standard Security or the Conditions;
- (b) any person to whom Lender has transferred or intends to transfer any interest under the Standard Security and the advisers of such person; or
- (c) any member of the Lender Group, its auditors, advisors or applicable regulatory authority;

such information in relation to the Borrower, the Owner, the Secured Liabilities or the Property as Lender shall think fit.

## **21. Joint and Several Liability**

Any agreements, security and undertakings given or implied by more than one person in the Standard Security or the Conditions shall be assumed to have been given jointly



and severally by all such persons.

**22. Agricultural Land**

The Owner agrees with Lender to pay any sums of money which may become payable by the Owner under the Agricultural Holdings (Scotland) Act 2003 for compensation, costs or otherwise of a tenant of all or part of the Property and if the Owner does not pay such sum of money, then Lender may either pay such sum of money itself or discharge any security or charge created under that Act to secure such money, and any money paid by Lender under this Condition shall be deemed to be an Expense.

**23. Licensed Premises**

If the Owner or any employee or agent of the owner at any time while the Standard Security is in force holds any licence or registration certificate (including, without prejudice to the foregoing generality, a premises licence or a personal licence) allowing alcoholic liquor to be sold from the Property under the Licensing (Scotland) Act 1976 or the Licensing (Scotland) Act 2005 (whichever is in force), the Owner agrees with Lender:

- 23.1 to obtain, renew and maintain or procure that there is obtained, renewed and maintained the relevant proper licence or certificate of registration in a form acceptable to Lender and, if requested by Lender, to produce such licence or certificate to Lender;
- 23.2 not to do or omit or allow anything to be done which may prejudice the continued existence or renewal of such licence or certificate;
- 23.3 to inform Lender as soon as he becomes aware of anything which is likely to affect the continued existence of such licence or certificate or to result in the conditions to such licence or certificate being varied;
- 23.4 to insure, and to keep such licence or certificate insured, against loss, termination or non-renewal in the joint names of the Owner and Lender in such sum and upon such terms as Lender may from time to time in writing require and the provisions of Condition 4 shall apply to such insurance as if they were repeated in this Condition 23;
- 23.5 at any time after Lender has demanded repayment of the Secured Liabilities, the Owner will upon the request of Lender do anything or sign any documents which Lender requests or procure that all relevant action is taken or documents signed to assist in the transfer of such licence or certificate to any other person.

**24. Other Consents and Licenses**

If the Owner at any time while the Standard Security is in force holds any licence or consent necessary to carry out any operation or business upon the Property, the Owner agrees with Lender:

- 24.1 to obtain, renew and maintain the necessary licence or consent in a form acceptable to Lender and, if requested by Lender, to produce such licence or consent to Lender;
- 24.2 not to do or omit or allow anything to be done which may prejudice the continued existence or renewal of such licence or consent;
- 24.3 to inform Lender as soon as he becomes aware of anything which is likely to affect the continued existence or renewal of such licence or consent or to result in the condition to such licence or consent being varied;
- 24.4 to insure and to keep such licence or consent insured against loss termination or non-renewal in the joint names of the Owner and Lender in such sum and upon such terms as Lender may from time to time in writing require and the provisions of Condition 4 shall apply to such insurance as if they were now repeated;
- 24.5 at any time after Lender has demanded repayment of the Secured Liabilities, the Owner will upon the request of Lender do anything or sign any document which Lender requests to assist in the transfer of such licence or consent to any other person.

**25. Compliance with Articles**

If either the Borrower or the Owner is a company, it certifies that the Standard Security does not contravene any of the provisions of its Memorandum and Articles of Association or other documents of constitution.

**26. Assignment of Rents**

If the whole or any part of the Property is, now or at any time while the Standard Security is in force, let, leased or licensed the Owner agrees with Lender as follows:

- 26.1 if so requested by Lender, to promptly deliver to Lender in such form as Lender may require a validly executed assignment in security of the Rental Sums and, if applicable, the benefit of any guarantee held by the Owner in respect of the liabilities and obligations of any lessees, sub-lessees, tenants or licensees of the Property;
- 26.2 if reasonably so required by Lender, to appoint such firm of repute as Lender may reasonably approve or specify to manage the Property and to collect the Rental Sums or remove any firm so acting and appoint another firm instead on terms reasonably approved by Lender;
- 26.3 immediately if called upon to do so by Lender, at the Owner's cost to deliver such particulars as to the amount and nature of the Rental Sums (including, without limitation, the identity and addresses of the lessees, sub-lessees tenants or licensees) as Lender may from time to time require;
- 26.4 not without the prior consent of Lender, to remove or suspend any firm engaged in the management of the Property or appoint another firm to manage the Property except as provided under Condition 26.2; and

- 26.5 at the option of Lender, instead of requiring the appointment of a firm to manage the Property pursuant to Condition 26.2, if called upon to do so by Lender, at the Owner's cost, to serve written notice on the lessees, sub-lessees, tenants or licensees of the Property requiring them to pay all sums payable by them in the future in relation to the Property, to Lender or as Lender may direct.

**27. Quotas, etc.**

If the Property is now or at any time while the Standard Security is in force used for the purposes of agriculture or forestry the Owner shall:

- 27.1 maintain the property in accordance with standards of good husbandry (and/or, as the case may be, good silvicultural practice) current from time to time;
- 27.2 not, without the prior consent of Lender, cease to be a "producer" (as defined by Article 5(c) of the Council Regulation (EC) No. 1788/2003);
- 27.3 not lease, sell, surrender or otherwise transfer or deal with, or allow to lapse or be confiscated or withdrawn, any of the Quotas or any part of them;
- 27.4 not without the prior consent of Lender enter into any agreement with Scottish Natural Heritage, the Scottish Ministers or any other environmental agency.

**28. Investigations**

- 28.1 If any event of default (howsoever described) under any Loan Agreement or other agreement between Lender and the Borrower occurs then (while it is continuing unwaived) Lender shall be entitled to initiate an investigation of, and/or instruct any report (accounting, legal, valuation or other) on the business and affairs of the Borrower which Lender considers necessary to ascertain the financial position of the Borrower, all fees and expenses incurred by Lender in so doing being payable by the Borrower.
- 28.2 The Borrower consents to the provision by Lender of all information in relation to the Borrower which Lender provides to any person in relation to the provisions of any such report as is referred to in Condition 28.1.

**29. Valuations**

Lender, at its discretion, shall be entitled to have a valuation of the Property carried out from time to time by an independent surveyor or valuer and the Borrower and the Owner consent to any such valuation report being prepared and agree to provide such access and other assistance as may reasonably be required by Lender for such purposes.

**30. Certification of Secured Liabilities**

- 30.1 Any account or certificate signed by a manager or other signing official authorised by Lender as to the amount of the Secured Liabilities or any part of them shall, in the absence of obvious error, be conclusive and binding on the Borrower.

30.2 The Borrower consents to the registration of any account or certificate as referred to in Condition 30.1 for execution.

**31. Governing Law**

These Standard Conditions are governed by and construed according to Scots law.

Part 3

None

Part 4

None

**Cabot Highlands LLP**

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