OFFER TO GRANT A LEASE

Our Ref: [ ]
Your Ref: [ ]

Date [ ]

[*Insert name and address of Tenant's Solicitors*]

Dear [Name of Addressee]

[Insert Landlord's name]
[Insert Tenant's name]
[Insert postal address of Property]

On behalf of and as instructed by the Landlord, we offer to lease the Property to your client, the Tenant, [with your client, the Guarantor guaranteeing the Tenant's obligations] on the following conditions:

1. **Definitions and Interpretation**

1.1 In the Missives:

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

["**2022 Act**" means the Economic Crime (Transparency and Enforcement) Act 2022;][1]

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

["**Automatic Plot Registration**" means first registration of the Landlord's title to the Property triggered by the grant of the Lease in terms of Sections 21(2)(b), 24(2), 25 and 30 of the 2012 Act;]

"**Business Day**" means a day on which clearing banks in [Edinburgh, Glasgow and London] are open for normal business;

"**Conclusion Date**" means, unless otherwise specified, the first date on which the Missives create a concluded contract;

[1] Only required if either the Landlord or Tenant is an overseas entity as defined in section 2 of the 2022 Act **and** the lease is for more than 20 years (ie it is registrable lease).

["**Deposit Agreement**" means a deposit agreement in the form of the draft deposit agreement contained in Part [9] of the Schedule;]

["**Disclosed Documents**" means the documents listed in Part [3] of the Schedule;]

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

["**Guarantee**" means the Guarantor's guarantee to the Landlord in the form of the draft guarantee contained in Part [8] of the Schedule;

"**Guarantor**" means [ ] incorporated under the Companies Acts with Registered Number [ ] and having its Registered Office at [ ];]

"**Initial Payment**" means a sum calculated in accordance with Clause 3.3.3;

"**Interest**" means interest on the sum in question at 4 % per annum above the base rate from time to time of [*insert name of bank*] (or any other UK clearing bank specified by the Landlord) from the date that such sum is due for payment, or if there is no date specified, the date of demand for such sum, until the sum is paid;

"**Landlord**" means [ ], incorporated under the Companies Acts (Registered Number [ ]) and having its Registered Office at [ ];

"**Landlord's Bank Account**" means [Bank: [ ], Sort Code: [ ], Account Number: [ ], Account Name: [ ] or] such [other] UK clearing bank account as the Landlord's Solicitors nominate by written notice to that effect at least 3 Business Days prior to the Term Start Date (being a client account of the Landlord's Solicitors);

"**Landlord's Solicitors**" means [ ] (Ref: [ ]) or such other solicitors as the Landlord may appoint in their place from time to time and who have been notified in writing to the Tenant's Solicitors;

"**LBTT**" means land and buildings transaction tax as provided for in the Land and Buildings Transaction Tax (Scotland) Act 2013;

"**Lease**" means the lease to be entered into in terms of the Missives in the form of the draft lease contained in Part 1 of the Schedule;

"**Lease Costs**" means the cost of registering the Lease [Deposit Agreement] [Guarantee] [and Licence for Works] in the Books of Council and Session and obtaining [ ] extracts;

["**Letter of Undertaking**" means a letter of undertaking in the form of the draft letter of undertaking contained in Part [6] of the Schedule;]

["**Licence for Works**" means the licence for works in the form of the draft licence contained in Part [4] of the Schedule;]

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

["**Overseas Entity**" has the meaning given in Section 2 of the 2022 Act;][2]

"**Plan**" means the [demonstrative] plan contained in Part [10] of the Schedule;

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[2] Only required if either the Landlord or Tenant is an overseas entity as defined in section 2 of the 2022 Act **and** the lease is for more than 20 years (ie it is registrable lease).

"**Property**" means ALL and WHOLE the premises known as [*insert address of Property*] [shown edged red on the Plan] and being the Premises as more particularly described in the Lease [and registered in the Land Register of Scotland under Title Number [ ]];

["**Registered Overseas Entity**" means an Overseas Entity that is registered in the ROE;][3]

"**Relevant Date**" means the later of (a) the Term Start Date and (b) the date on which the Landlord duly executes the Lease;

["**Rent Commencement Date**" means [insert date] [the date [ ] [weeks/months] after the Term Start Date];]

"**Rent Days**" [has the meaning given to this term in the Lease][means][28 February, 28 May, 28 August and 28 November][the first day of every month];

["**Rent Deposit**" means the sum of [ ] POUNDS (£[ ]) STERLING, together with a sum equal to VAT on it;]

["**Rent Free Period**" means the period starting on the Term Start Date and ending on the Rent Commencement Date, during which the rent referred to in Clause 3.2 is not payable and a rent of £1 (if asked only) is payable;]

["**ROE**" means the register of overseas entities established under Section 3 of the 2022 Act;][4]

"**Schedule**" means the schedule annexed to this offer;

["**Side Agreement**" means the agreement between the Landlord and the Tenant in the form of the draft contained in Part [7] of the Schedule;]

"**Tenant**" means [ ], incorporated under the Companies Acts (Registered Number [ ]) and having its Registered Office at [ ];

"**Tenant's Bank**" means the client account of the Tenant's Solicitors;

"**Tenant's Solicitors**" means [ ] (Ref: [ ]) or such other solicitors as the Tenant may appoint in their place from time to time and who have been notified in writing to the Landlord's Solicitors;

["**Tenant's Works**" means the fitting out works to the Property specified in Part [5] of the Schedule;]

"Term End Date" means [[ ] 20[ ]] [the day preceding the [ ] anniversary of the Term Start Date];

"**Term Start Date**" means [[ ] 20[ ]] [the first Business Day occurring [ ] Business Days after the Unconditional Date] or such other date as the Tenant and the Landlord agree in writing with specific reference to the Missives;

"**Title Deeds**" means the title deeds of the Property [listed in Part [2] of the Schedule]; [and]

["**Unconditional Date**" means the date on which [all of] the condition[s] set out in Clause 2.1 [has][have] been satisfied or waived in accordance with the terms of Clause 2]; [and]

"**VAT**" means value added tax as provided for in the Value Added Tax Act 1994 and any tax similar or equivalent to value added tax or performing a similar fiscal function.

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[3] See footnote 2

[4] See footnote 2

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 and reference, in any Part of the Schedule, to a numbered paragraph is a reference to the relevant numbered paragraph in that Part of the Schedule;

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 or Sections 9B and 9C of the Requirements of Writing (Scotland) Act 1995;

1.2.10 where at any one time there are two or more persons included in the expression "Tenant" or "Landlord" [or “Guarantor”] obligations contained in the Missives which are expressed to be made by the Tenant and/or the Landlord [and/or the Guarantor] are binding jointly and severally on them and their respective executors and representatives whomsoever without the necessity of discussing them in their order;

1.2.11 any reference to funds being cleared means that the funds are immediately available for withdrawal from the holder's bank account;

1.2.12 where a Clause provides that Interest is payable and that the sum will be paid within a specified period, no Interest will accrue on the sum provided it is paid within that period; and

1.2.13 where something is to be done "as soon as reasonably practicable" it is to be done without undue delay.

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. **[Suspensive Condition[s]**

2.1 **Conditions**

The Missives are suspensively conditional on the Landlord notifying the Tenant before 5.00pm on [] that it has received in terms satisfactory to it (in which regard the Landlord is the sole judge):

2.1.1 any necessary consents to the grant of the Lease from its heritable creditors; [and

2.1.2 *insert details of any other suspensive conditions here.*]

2.2 **Rights to Resile**

2.2.1 The suspensive condition contained in Clause 2.1.1 is for the benefit of the Landlord and the Tenant and neither party may unilaterally waive it.

2.2.2 [The suspensive condition[s] contained in Clause 2.1.2 and [ ] [is][are] for the benefit of [the Landlord][the Tenant] and [the Landlord][the Tenant] may waive [it][them] in whole or in part at any time before the valid service of a notice resiling as mentioned in Clause 2.2.3.]

2.2.3 If the suspensive condition[s] contained in Clause 2.1 [is] [are] not purified within the time limit, or waived, either party may resile from the Missives, without penalty (except in respect of any prior breach), by giving written notice from it or its solicitors to the other [party][parties] or [its][their] solicitors to take effect on the earlier of actual receipt and deemed receipt by the other [party][parties] or [its][their] solicitors.

2.3 **Reasonable Assistance**

Each party will assist the other to enable the suspensive condition[s] contained in Clause 2.1 to be purified. As soon as reasonably practicable after the Conclusion Date, the Tenant [and the Guarantor] will exhibit to the Landlord [*Insert details of information the Landlord needs to see to satisfy the suspensive conditions. This may include bank or trade references, the Tenant's [and Guarantor's] certificate of incorporation etc.*]].

3. **Lease**

3.1 **Term**

3.1.1 The period of the Lease will be from (and including) the Term Start Date to (and including) the Term End Date.

3.1.2 Entry and vacant possession will be given to the Tenant on the Term Start Date.

3.2 **Annual Rent**

The initial annual rent will be [ ] POUNDS £[ ] (exclusive of any VAT properly chargeable on it) payable in advance by equal instalments as set out in the Lease [subject to the Rent Free Period].

3.3 **Initial Payment**

3.3.1 On or before the Term Start Date the Tenant will pay the Initial Payment. [The Landlord can refuse the Tenant occupation of the Property until the Landlord has received the Initial Payment.]

3.3.2 The Initial Payment will be paid either:

(a) directly to the Landlord by the Tenant or

(b) to the Landlord's Bank Account from the Tenant's Bank,

in each case by instantaneous bank transfer of cleared funds. Payment of the Initial Payment in cash or from the Tenant direct to the Landlord's Solicitors is not permitted.

3.3.3 The Initial Payment is the sum of:

(a) the proportion of the initial annual rent calculated on a daily basis from, and including, the [Term Start Date] [Rent Commencement Date] to, and including, the day before the next Rent Day after the [Term Start Date] [Rent Commencement Date];

(b) [the proportion of the [service charge] [and insurance premium] calculated on a daily basis from, and including, the Term Start Date to, and including, the day before the next Rent Day after the Term Start Date;]

(c) any VAT payable on the amounts specified in Clauses 3.3.3(a) and (b);

(d) [the Rent Deposit;] and

(e) the Lease Costs.

3.3.4 If the Tenant fails to pay the Initial Payment on time the Tenant will pay Interest on the Initial Payment from the Term Start Date until the sum is paid unless the delay in payment by the Tenant is due to any failure or breach by or on behalf of the Landlord to implement its obligations or duties under the Missives on time.

3.4 **LBTT Requirements**

3.4.1 If the transaction contemplated by the Missives is notifiable for LBTT purposes, the Tenant will submit the LBTT return and pay any LBTT due on the grant of the Lease to Revenue Scotland within [5] Business Days of the effective date of the Lease for LBTT purposes. The Tenant will provide the Landlord's Solicitor with a copy of the electronic submission receipt for the LBTT return and confirm that any LBTT has been paid (or arrangements satisfactory to Revenue Scotland initiated) as soon as reasonably practicable.

3.4.2 If the Tenant breaches its obligations in Clause 3.4.1, it will indemnify the Landlord against any loss suffered by the Landlord.

3.5 **Signing and Registering the Lease and Other Documents**

3.5.1 As soon as reasonably practicable after the [Conclusion Date] [Unconditional Date] the Landlord's Solicitors will complete the Lease [Side Agreement] [Licence for Works] [Deposit Agreement] [and] [Guarantee] by inserting any relevant information required (including any modifications required to reflect the terms of the Missives) and engross the documents for signing.

If the Lease is NOT registrable in the Land Register of Scotland insert clauses 3.5.2 to 3.5.5 and if the Lease IS registrable in the Land Register insert clauses 3.5.6 to3.5.9. Delete the inappropriate clauses.

3.5.2 [Within [5] Business Days after the [Lease][documents] [has][have] been engrossed the Landlord's Solicitor will send to the Tenant's Solicitor the:

(a) Lease;

(b) [Licence for Works]; and

(c) [Deposit Agreement].

3.5.3 Within [10] Business Days after receipt of the engrossed [Lease][documents] by the Tenant's Solicitors the Tenant will duly execute the [Lease][documents] [and procure that the Guarantor duly executes the Licence for Works] and return [it][them] to the Landlord's Solicitor together with:

(a) evidence that [the Lease has] [they have] been duly executed by the Tenant [and the Guarantor, as appropriate]; [and

(b) payment of the Lease Costs (if not already paid)].

3.5.4 Within [10] Business Days of the later of receipt from the Tenant of:

(a) the signed [Lease][documents] in terms of Clause 3.5.3; and

(b) a copy of the electronic submission receipt for the LBTT return,

the Landlord will duly execute the [Lease][documents] and submit [the Lease][them] to the Books of Council and Session for registration for preservation and execution and obtain [3] extracts.

3.5.5 Within 5 Business Days of receiving the extracts of the documents, the Landlord will send one extract of [the Lease] [each document] to the Tenant.]

OR

3.5.6 [Within [10] Business Days after the [Lease][documents] [has][have] been engrossed the Landlord will duly execute:

(a) the Lease;

(b) [Licence for Works];and

(c) [Deposit Agreement],

and send [it][them] to the Tenant's Solicitor (for signing by the Tenant) together with evidence that the [Lease][documents] have been duly executed by the Landlord.

3.5.7 Within [10] Business Days after receipt of the documents by the Tenant's Solicitor, the Tenant will:

(a) duly execute the [Lease][documents];

(b) [procure that the Guarantor duly executes the Licence for Works;]

(c) [return the [Licence for Works] [and] [Deposit Agreement] to the Landlord's Solicitors together with evidence that the documents have been duly executed by the Tenant [and Guarantor, as appropriate];]

(d) submit the Lease to the Land Register of Scotland for registration and simultaneously to the Books of Council and Session for registration for preservation and execution and obtain [three] extracts of it; and

(e) the Tenant will include the following email address on the Land Registration application form for the Lease: [ ].

3.5.8 [Within 5 Business Days of receipt of the [Licence for Works] [and] [Deposit Agreement] the Landlord will submit [it][them] to the Books of Council and Session

for registration for preservation and execution and obtain [three] extracts of [it][them].]

3.5.9 Within 5 Business Days after receipt:

(a) the Tenant will send [two] extracts of the Lease to the Landlord;[and

(b) the Landlord will send one extract of the [Licence for Works] [and] [Deposit Agreement] to the Tenant].]

3.6 **[Side Agreement**

The Landlord will duly execute the Side Agreement in duplicate and deliver one duly executed engrossment of the Side Agreement to the Tenant's Solicitor (for retention by the Tenant) when the Landlord [presents the Lease for registration in the Books of Council and Session] [sends the Lease, duly executed by the Landlord, to the Tenant's Solicitor].

OR (if the Side Agreement requires to be signed by the Tenant)

The Landlord will duly execute the Side Agreement in duplicate and deliver both duly executed engrossments of the Side Agreement to the Tenant's Solicitor (for signing by the Tenant) when the Landlord [presents the Lease for registration in the Books of Council and Session] [sends the Lease, duly executed by the Landlord, to the Tenant's Solicitor] and within [10] Business Days after receipt of engrossments by the Tenant's Solicitor the Tenant will duly execute the Side Agreement in duplicate and deliver one duly executed engrossment of the Side Agreement to the Landlord's Solicitor (for retention by the Landlord).]

3.7 **[Guarantee**

3.7.1 It is an essential condition of this offer that the Tenant's Solicitor accepts it on behalf of the Tenant and the Guarantor.

3.7.2 The Guarantor guarantees the obligations of the Tenant under the Lease [and the Licence for Works] by executing the Guarantee [and the Licence for Works respectively].

3.7.3 As soon as reasonably practicable after the [Conclusion Date] [Unconditional Date] the Landlord's Solicitors will send the engrossed Guarantee to the Tenant's Solicitors for execution by the Guarantor.

3.7.4 The Guarantor will duly execute the Guarantee [and Licence for Works] and return [it][them] to the Landlord's Solicitors within [10] Business Days of receipt of [it][them] by the Tenant's Solicitors together with evidence that [it has][they have] been duly executed by the Guarantor.

3.7.5 The Landlord will submit the Guarantee to the Books of Council and Session for registration for preservation and execution and obtain [3] extracts of it. Within 5 Business Days of receiving the extracts of the Guarantee, the Landlord will deliver one extract to the Tenant and one to the Guarantor.

3.7.6 If the Guarantor has not duly executed the Guarantee [and the Licence for Works] by the Term Start Date, the terms of the Missives incorporating the guarantee provisions contained in the draft Guarantee [and Licence for Works] bind the Guarantor from the Term Start Date as if the Guarantee [and Licence for Works] had been duly executed.

3.7.7 [The Guarantor will procure that the Tenant complies with the Tenant's obligations under the Missives.]]

3.8 **Terms Binding from the Term Start Date**

If the engrossed Lease [Side Agreement] [Deposit Agreement] [and Licence for Works] [has] [have] not been duly executed by the Term Start Date, the terms of the Lease, [Side Agreement,] [Deposit Agreement] [and Licence for Works] bind the Landlord and the Tenant from the Term Start Date as if [the Lease][they] had been duly executed.

4. **Title**

4.1 **Tenant Satisfied with Title**

4.1.1 [Subject to Clause 4.4 the Tenant is deemed to have satisfied itself with the extent and nature of the Property and the Landlord's title to it (including the validity and marketability of it) and accepts that it is leasing the Property with and under the Encumbrances affecting the Property (whether specified or referred to in the Title Deeds or not). So far as the Landlord is aware there are no Encumbrances affecting the Property other than as referred to in the Title Deeds.]

OR

[Subject to Clause 4.4 the Tenant is deemed to have examined the Disclosed Documents and accepts that it is leasing the Property:

(a) on the basis that it has satisfied itself on all matters disclosed in the Disclosed Documents and on the validity and marketability of the Landlord's title to the Property; and

(b) with and under any Encumbrances affecting the Property (whether specified or referred to in the Disclosed Documents or not). So far as the Landlord is aware there are no Encumbrances affecting the Property other than as referred to in the Disclosed Documents.]

4.1.2 Clause 4.1.1 overrides any other provision of the Missives apparently to the contrary. [Any confirmation given by the Landlord in the Missives is given subject to the Disclosed Documents whether or not that is expressly stated.]

4.2 **[Documents to be Disclosed**

4.2.1 To the extent it has not already done so, the Landlord will exhibit to the Tenant as soon as reasonably practicable after the Conclusion Date:

(a) [the Title Deeds [and all necessary links in title evidencing the Landlord's exclusive ownership of the Property];]

(b) [property enquiry certificate in respect of the Property which is dated not more than [sixty] days before the date of this offer;]

(c) [coal mining search from the Coal Authority in respect of the Property which is dated not more than ninety days prior to the date of this offer;] and

(d) [any notices received by the Landlord affecting the Property.]

4.2.2 The Tenant has until the earlier of the Term Start Date or [15] Business Days from receipt of each of the respective items referred to in Clause 4.2.1 to satisfy itself on their terms.

4.2.3 If any of the items referred to in Clause 4.2.1 disclose any matters materially prejudicial to the interest of the Tenant, the Tenant may resile from the Missives

without penalty on delivery of written notice to that effect to the Landlord's Solicitor received prior to the earlier of the Term Start Date or the [15] Business Day period referred to in Clause 4.2.2, time being of the essence. Failing such notice, the Tenant is deemed to be satisfied as to the terms of the items referred to in Clause 4.2.1 [and each of such items will become a Disclosed Document for the purposes of the Missives.]]

4.3 **Outstanding Disputes**

There are no outstanding disputes with neighbouring proprietors or third parties about items common to the Property and adjacent premises, access to or from the Property, the title to the Property or similar matters.

4.4 **Reports and Searches**

4.4.1 [The Landlord will deliver on the Term Start Date a legal report brought down to a date as near as practicable to the Term Start Date and, if the Relevant Date occurs later than the Term Start Date, the Landlord will deliver (within 5 Business Days of the Relevant Date) a legal continuation report brought down to the Relevant Date which reports will show no entries adverse to the Landlord's ability to grant the Lease; the cost of the legal report and any legal continuation report being the responsibility of the Landlord.]

OR if the Lease is registrable in the Land Register

[The Landlord will deliver on the Term Start Date a legal report brought down to a date as near as practicable to the Term Start Date and if the Relevant Date occurs later than the Term Start Date, deliver (at the same time as sending the Lease to the Tenant's Solicitor in accordance with Clause 3.5.2) a legal continuation report brought down to the Relevant Date which reports will show:

(a) no entries adverse to the Landlord's ability to grant the Lease;

(b) the Advance Notice for the Lease;

(c) no other Advance Notices affecting the Property other than those submitted by the Tenant; and

(d) nothing prejudicial to the Tenant's right to the Lease,

the cost of the legal report and any legal continuation report being the responsibility of the Landlord.]

4.4.2 If the Landlord is a company incorporated under the Companies Acts, the Landlord will exhibit on the Term Start Date (and, if the Relevant Date occurs later than the Term Start Date, [within 5 Business Days of the Relevant Date] [at the same time as sending the Lease to the Tenant's Solicitor in accordance with Clause 3.5.2]) searches in the Register of Charges and Company File of the Landlord from the date of its incorporation or the date of inception of the Register (whichever is the later) brought down:

(a) as near as practicable to the Term Start Date or to the Relevant Date as appropriate; and

(b) within 3 months following the Relevant Date, to a date at least 36 days after the Relevant Date,

in each case disclosing no entry prejudicial to the Tenant's right in the Lease. The Landlord's Solicitors will not provide a letter of obligation in respect of the updated search in the Register of Charges and Company File.

4.4.3 If the grant of the Lease will induce first registration in the Land Register of Scotland, the Landlord will exhibit on the Term Start Date, searches in the Register of Charges and Company File of every limited company having an interest in the Property in the prescriptive period (including, where appropriate, a search to identify the directors and secretary of the granter as at the date of signing of the disposition or other deed divesting such company of its interest in the Property) in each case from the date of their incorporation or the date of inception of the Register (whichever is the later) brought down to the date twenty-two days after the date of recording of the disposition or other deed divesting such company of its interest in the Property in each case disclosing no entry prejudicial to the Tenant's right to the Lease.

4.4.4 On the Term Start Date:

(a) the Landlord will:

(i) exhibit the letter of consent from the heritable creditor of the Landlord having security over the Property;

(ii) exhibit a letter of non crystallisation (and, if necessary, a letter of consent to the Lease) from the holders of any floating charges over the Landlord's assets in the holder's usual form;

(iii) deliver a VAT invoice for any VAT due to be paid by the Tenant on the Term Start Date; [and]

(iv) deliver the [keys] [security cards] [security fobs] [other] for the Property; [and]

(v) [exhibit a search in the ROE against the Landlord as provided for in paragraph 1.3 of Part 11 of the Schedule,

and

(b) the Tenant will, if it is an Overseas Entity deliver a search in the ROE as provided for in paragraph 2.3 of Part 11 of the Schedule.][5]

4.5 **[Letter of Undertaking**

The Landlord's Solicitor will deliver the Letter of Undertaking to the Tenant's Solicitor on the Term Start Date.]

OR if the Lease is registrable in the Land Register of Scotland include alternative wording below and Clause 4.5 and 4.6

[**Advance Notices**

4.5.1 The Landlord will apply to the Keeper for an Advance Notice for the Lease, in the form adjusted with the Tenant, to be either (i) entered on the application record for the Property or (ii) recorded in the Register of Sasines, no earlier than 5 Business Days prior to the Relevant Date. The cost of the Advance Notice for the Lease will be met by the Landlord.

4.5.2 The Landlord consents to the Tenant applying to the Keeper for Advance Notices for any deeds which the Tenant intends to grant in relation to the Lease. The cost of any Advance Notices which the Tenant applies for will be met by the Tenant.

[5] Delete if neither the Landlord nor the Tenant is an overseas entity as defined in section 2 of the 2022 Act.

4.5.3 The Landlord's Solicitors will not provide any letter of obligation undertaking to clear the records of any deed, decree or diligence.

4.6 **[Land Register Requirements – Tenant's Right**

4.6.1 Subject to Clause 4.6.2, the Landlord will deliver to the Tenant, on demand from time to time and at the Landlord's expense, such documents and evidence as the Keeper may require to enable the Keeper to create the title sheet disclosing the Tenant as the registered proprietor of the whole of the tenant's right in the Lease. Such documents will include (unless the Property comprises part only of a building):

(a) a plan or bounding description sufficient to enable the Property to be identified on the cadastral map; and

(b) evidence (such as a plans report) that (i) the description of the Property in the Lease is habile to include the whole of the occupied extent; and (ii) there is no conflict between the extent of the Property and registered cadastral units.

4.6.2 After the Relevant Date, the Landlord will deliver such documents and evidence as are specified in Clause 4.6.1 only if the Tenant has complied timeously with its obligations in terms of Clause 3.5.3.

4.6.3 If the application for registration of the Lease is rejected by the Keeper the Landlord will co-operate with the Tenant and, at the Tenant's expense, do such acts and things (including obtaining a further Advance Notice), execute such deeds and documents and deliver such documents and evidence as may be required to enable the Keeper to update or create (as the case may be) the Lease Title Sheet to disclose the Tenant's right to the Lease.]

4.7 **[Post Completion**

4.7.1 Provided that the Lease is presented for registration prior to the earlier of:

(a) [10] Business Days after receipt of the Lease by the Tenant's Solicitor; and

(b) the date of expiry of the Advance Notice registered in relation to the Lease in terms of Clause 4.5.1,

the newly created title sheet for the Lease will contain no exclusion or limitation of warranty in terms of section 75 of the 2012 Act and disclose no entry, deed or diligence (including any charging order under the Buildings (Recovery of Expenses) (Scotland) Act 2014 or any notice of potential liability for costs registered under the Tenements (Scotland) Act 2004 or the Title Conditions (Scotland) Act 2003) prejudicial to the right of the Tenant to the Lease other than such as are created by or against the Tenant or have been disclosed to and accepted in writing by the Tenant prior to the Term Start Date.]

4.8 **[Automatic Plot Registration**

4.8.1 If Automatic Plot Registration applies, the Landlord will exhibit to the Tenant, on demand from time to time and at the Landlord's expense, such documents and evidence as the Keeper may require to enable the Keeper to create a title sheet for the Property to disclose the Landlord as the registered proprietor of the whole of the Property. Such documents will include (unless the Property comprises part only of a building):

(a) a plan or bounding description sufficient to enable the Property to be delineated on the cadastral map; and

(b) evidence (such as a plans report) that (i) the description of the Property in the Title Deeds is habile to include the whole of the occupied extent; and (ii) there is no conflict between the extent of the Property and registered cadastral units.

4.8.2 The Tenant will provide the draft Land Registration application form for the Lease to the Landlord's Solicitor for approval not later than 5 Business Days prior to the Term Start Date.

4.8.3 As soon as reasonably practicable the Tenant will return to the Landlord any documents and evidence referred to in Clause 4.8.1 which do not require to be submitted to the Keeper or which are returned by the Keeper to the Tenant.

4.8.4 The Tenant will include the following email address on the Land Registration application form for the Lease: [ ].]

5. Statutory Matters

5.1 Statute

[Subject to Clause 4.2 the][The] Tenant 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 except as expressly provided for in the Missives the Landlord gives no warranties or assurances on such matters.

5.2 Statutory Repairs Notice

Any local authority statutory repairs notices affecting the Property which are issued prior to the Term Start Date will as between the Landlord and the Tenant be the responsibility of the Landlord except to the extent that they are instigated by or with the authority of the Tenant. Liability under this Clause will subsist until met and will not be avoided by the issue of a fresh notice.

5.3 Energy Performance

5.3.1 The Landlord confirms that a valid energy performance certificate for the Property in terms of the Energy Performance of Buildings (Scotland) Regulations 2008 has been obtained for and affixed to the Property.

5.3.2 The Property is not subject to the Assessment of Energy Performance of Non-domestic Buildings (Scotland) Regulations 2016.

5.3.3 The Property is not subject to a green deal plan as defined in section 1 of the Energy Act 2011.

5.4 [Community Asset Transfer Request

If the Landlord is a relevant authority in terms of section 78 and Schedule 3 of the Community Empowerment (Scotland) Act 2015 the Landlord confirms that it has not received any asset transfer request from a community transfer body in relation to the Property.]

6. [Rates and Apportionments

6.1 Rateable value

The Landlord confirms the rateable value of the Property is as shown in the current Valuation Roll and there are no subsisting appeals against this rateable assessment.

6.2 **Apportionments**

6.2.1 All outgoings for the Property (other than rates) will be apportioned as at the Term Start Date on an equitable basis.

6.2.2 Within [5] Business Days after the Term Start Date, the Landlord or the Landlord's Solicitor will advise the local authority of the grant of the Lease so that any apportionment of rates can be carried out by the local authority.]

7. **Maintenance**

Until the Term Start Date, the Landlord will, at its own expense, execute, or instruct the execution of, any repairs necessary to maintain the Property and any common parts pertaining to it, in substantially their present condition.

8. **Damage or Destruction**

8.1 If prior to the Term Start Date 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, either party may resile from the Missives without penalty on delivery of written notice to that effect to the other's solicitors no later than midday on the Term Start Date, time being of the essence.

8.2 If there is any dispute as to whether the Property has suffered such damage, 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 Landlord or the Tenant 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 Landlord and the Tenant in the proportions which the independent surveyor directs and if no direction is made equally.

9. **[Tenant's Works**

The Landlord approves the Tenant's Works. Any Tenant's Works will be carried out in accordance with the Licence for Works.]

10. **Costs**

10.1 [Each party will bear their own costs and expenses] [Within 10 Business Days of demand, the Tenant will pay to the Landlord [a contribution of [ ] (£[ ]) POUNDS STERLING (exclusive of VAT, which will be payable by the Tenant in addition) towards] all legal and other professional fees and outlays reasonably and properly incurred by the Landlord in connection with the Missives [Lease] [Licence for Works] [Deposit Agreement] [Side Agreement] [and Guarantee].

10.2 The Tenant will be responsible for any LBTT payable in respect of the transaction contemplated by the Missives and for the Lease Costs [and for the cost of registering the Lease in the Land Register of Scotland].

11. **Notices**

11.1 Any notice required by this offer will be in writing and will be sent by the party or its Solicitors to the other party or the other party's Solicitors.

11.2 The notice will be delivered by hand or sent by pre-paid first class post or special delivery to the relevant party or its Solicitors.

11.3 Subject to Clause 11.4, any notice will be deemed to be received:

11.3.1 at the time of delivery (with proof of delivery) if delivered by hand; and

11.3.2 2 Business Days after the date of posting if sent by first class or special delivery post.

11.4 In the case of delivery by hand, if delivery occurs outwith normal business hours (9am – 5pm) on a Business Day or on a day which is not a Business Day, delivery will be deemed to occur at 9am on the next Business Day.

12. **[Confidentiality**

12.1 **Before Term Start Date**

The Tenant and the Landlord will not disclose details of the Missives or the letting of the Property to the Tenant to the press or otherwise prior to Term Start Date except:

12.1.1 with the [prior written consent] [(such consent not to be unreasonably withheld or delayed)] of the other party;

12.1.2 to the Tenant and the Landlord's respective agents and professional advisers in connection with the letting of the Property;

12.1.3 to the Tenant's bankers or other providers of finance (and their professional advisers) in connection with the lease of the Property;

12.1.4 [where required for registration of the Missives in the Books of Council and Session for preservation and execution;]

12.1.5 where required by law; and

12.1.6 where required to comply with the requirements of the Stock Exchange or any other regulatory or government authority.

12.2 **[After Term Start Date**

Any press release after the Term Start Date relating to the letting of the Property is to be agreed in writing between the Tenant and the Landlord prior to its publication (both parties acting reasonably).]

12.3 **Agents**

The Tenant and the Landlord will ensure that their respective agents and professional advisers comply with the undertakings in this Clause 12.

13. **[Overseas Entities**

If either the Landlord or the Tenant is an Overseas Entity or both are Overseas Entities the provisions of Part 11 of the Schedule will apply.][6]

14. **General**

14.1 **Formal Documentation Required**

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[6] See footnote 5

Neither the Landlord nor the Tenant 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.

14.2 **Complete Agreement**

The Missives (including the annexations) will represent and express the full and complete agreement between the Landlord and the Tenant relating to the letting of the Property by the Landlord to the Tenant at the Conclusion Date and will supersede any previous agreements between the Landlord and the Tenant relating to it. Neither the Landlord nor the Tenant has been induced to enter into the Missives on account of any prior warranties or representations.

14.3 **Exclusion of Third Party Rights**

The Missives do not create any rights in favour of third parties under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or otherwise invoke any provision of the Missives.

15. **[Supersession**

The provisions of the Missives (other than Clauses [ ], which will remain in full force and effect until implemented) in so far as not implemented by the granting and delivery of the Lease and others, will remain in full force and effect until the earlier of:

15.1 the date when such provisions have been implemented; and

15.2 [two years] after the Term Start Date except in so far as they are founded on in any court proceedings which have commenced within such [two year] period.]

16. **Exclusion of Personal Liability**

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

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

16.3 The Landlord and the Tenant will be solely liable to each other for compliance with, and fulfilment of, their respective obligations under the Missives.

17. **[Assignation**

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

17.1 assign, transfer, grant any fixed security 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;

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

17.3 purport to do any of the foregoing

except after the Term Start Date in accordance with the terms of the Lease.]

18. **Proper Law and Prorogation**

The Missives and the rights and obligations of the Landlord [and the] Tenant [and Guarantor] will be governed by and construed in accordance with the law of Scotland and the Landlord

and the Tenant will be deemed to have agreed to submit to the exclusive jurisdiction of the Scottish courts.

19. **[Consent to Registration**

The parties consent to registration of the Missives in the Books of Council and Session for preservation and execution.]

20. **Time Limit**

This offer, if not previously withdrawn, will fall unless a binding written acceptance has been received by us by 5 pm on [ ] 20[ ].

Yours faithfully

..... **Witness Signature:** .....

Witness Name: .....

Witness Address: .....

.....

.....

This is the Schedule referred to in the foregoing offer by [ ] (on behalf of [ ]) to [ ] (on behalf of [ ]) in respect of [ ]

Part 1

Lease

Part 2
[Title Deeds]

Part 3
[Disclosed Documents]

Part 4
[Licence for Works]

Part 5
[Tenant's Works]

Part 6
[Letter of Undertaking]

Part 7
[Side Agreement]

Part 8
[Guarantee]

Part 9
[Deposit Agreement]

Part 10
Plan

Part 11
Overseas Entities

In this part of the Schedule **"relevant interest in land"** has the meaning given by Section 9(10)(b) of the 2022 Act.

1. **Landlord Overseas Entity**

1.1 If the Landlord is an Overseas Entity and is the proprietor of a relevant interest in land[7] it confirms that:

1.1.1 it is a Registered Overseas Entity;

1.1.2 it has complied with the duty to update the ROE in Section 7 of the 2022 Act; and

1.1.3 the information held in the ROE for the Landlord is correct, complete and up to date.

1.2 A search in the ROE against the Landlord confirming the statements in paragraph 1.1 will be delivered prior to the Conclusion Date.

1.3 An updated search in the ROE against the Landlord will be brought down as near as practicable to the Term Start Date and delivered to the Tenant at the Term Start Date.

1.4 The cost of the searches will be the responsibility of the Landlord.

2. **Tenant Overseas Entity[8]**

2.1 If the Tenant is an Overseas Entity, it confirms that:

2.1.1 it is a Registered Overseas Entity;

2.1.2 it has complied with the duty to update the ROE in Section 7 of the 2022 Act; and

2.1.3 the information held in the ROE for the Tenant is correct, complete and up to date.

2.2 A search in the ROE against the Tenant confirming the statements in paragraph 2.1 will be delivered prior to the Conclusion Date;

2.3 An updated search in the ROE brought down as near as practicable to the Term Start Date will be delivered to the Landlord on the Term Start Date.

2.4 The cost of the searches will be the responsibility of the Tenant.

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[7] No reference is made to a qualifying registrable deed in the offer because if the Landlord is an overseas entity with a relevant interest in land then the disposition in its favour will be a qualifying registrable deed in terms of the 2022 Act.

[8] Under paragraph 1 of Schedule 1A of the 2012 Act the Tenant only needs to be a Registered Overseas Entity at the date the application (for registration of the lease in the Land Register) is submitted to the Land Register but the PSG considers that it is important for the Landlord to ensure that the registration process has been completed before the Term Start Date to avoid any delays on the Term Start Date and to provide comfort to the Landlord that any application for registration of the lease will not be rejected for failure to comply with the provisions of the 2022 Act.