

CONTRACT FARMING AGREEMENT

between

[REDACTED]

and

[REDACTED]

in respect of

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

CONTRACT FARMING AGREEMENT

between

[REDACTED]
[REDACTED] (hereinafter called "the Farmer")

and

[REDACTED], having a place of business at [REDACTED]
(hereinafter called "the Contractor")

CONSIDERING THAT (One) the Farmer owns and occupies the farm known [REDACTED]
[REDACTED]

Aberdeenshire together with the buildings and other fixed equipment thereon and (TWO) the Farmer and the Contractor have agreed that the Contractor shall supply the services of the Contractor to provide all necessary manpower and machinery in connection with the Farmer's business on the said farms and have agreed to enter into a Contract Farming Agreement for the working of the said farms NOW THEREFORE the parties agree and do hereby agree as follows:-

- 1 In this Agreement the following expressions shall (where the context so admits) respectively shall the following meanings namely:-
 - 1.1 "Accounting Date" means the 30th day of April in any year during the currency of this Agreement.
 - 1.2 "Accounting Period" means a period of 12 months ending on an Accounting Date except that [the first Accounting Period shall end on the Accounting Date that shall first occur following the expiration of twelve months after the Commencement Date and] the last Accounting Date shall fall on the Date of Termination.
 - 1.3 "Agri-Environmental Scheme" means any scheme whereby payments shall be available to the Farmer in respect of environmental activities carried out on the Farm, farming practices undertaken on the Farm to support environmental concerns and farming practices discontinued or avoided for any such purpose;
 - 1.4 "Commencement Date" means the 1st day of August 2013 notwithstanding the date or dates hereto;
 - 1.5 "Cropping Hectare" means each hectare or part hectare of the Farm utilised as part of the Farming Business in an Accounting Period and shall not include fallow land under the Single Farm Payment Scheme (or its equivalent) nor land let to third parties for the growing of potatoes or grazing land let out by the Farmer to third parties in any Accounting Period;
 - 1.6 "Cross Compliance" means any regulations that require to be complied with in relation to payment of Single Farm Payments, Subsidy Entitlements, or any other grant or subsidy scheme.
 - 1.7 "Date of Termination" means 28th November 2023.

- 1.8 "Farm" shall mean the properties known as [REDACTED] as more particularly described in Part One of the Schedule.
- 1.9 "Farming Business" means the business of the Farmer in farming the Farm in accordance with the terms and conditions of this Agreement;
- 1.10 "Farming Year" means a period of 12 months ending on the 30th day of September in any year during the currency of this Agreement
- 1.11 "Farm Produce" means all crops or other produce produced on the Farm pursuant to the terms of this Agreement;
- 1.12 "Field Schedule" means the field schedule annexed and signed as relative hereto;
- 1.13 "Fixed Equipment" means all buildings, fixtures, fences, drains and farm roads on the Farm;
- 1.14 "Managing Agents" shall mean Savills, of 12 Clerk Street, Brechin DD9 6AE.
- 1.15 "Net Profits" shall mean the profits of the Farm for an Accounting Period determined in accordance with the provisions of Part Two of the Schedule.
- 1.16 "Plan" means the plan annexed and signed as relative hereto, which plan is demonstrative and not taxative;
- 1.17 "Rateable Profit" shall mean a sum of money calculated in respect of a given Accounting Period in accordance with the provisions of Part Three of the Schedule.
- 1.18 "Schedule" means the schedule of four parts annexed and signed as relative hereto.
- 1.19 "Statutory Obligations" means obligations and duties arising under any statute and/or subordinate or derivative legislation and/or any regulations made and/or notices and/or order issued thereunder.
- 1.20 "Steading" means the farm buildings shown [] on the Plan.
- 1.21 "Subsidy Entitlements" means all crop or other quota or any other quota or any other right of or restriction on production or any right conferred or a producer to receive any subsidy or other payment whether area based or under any scheme for the production or marketing of agricultural produce or environmental protection or enhancement or otherwise which is now or at any time in the future may be allocated, transferred or otherwise made available to the Farmer (whether along or in partnership with another person or to a company group or co-operative of which the Farmer is a member) in respect of the Farm or any part thereof or land of which the Farm is part and shall include but not be limited to the right to all payments by way of Single Farm Payment Entitlement or Direct Payments or other payments to active farmers under CAP Reform or otherwise.

2 Farming Services

- 2.1 The Contractor shall supply his services to the Farmer upon and subject to the whole terms and conditions contained in this Agreement.
- 2.2 The Contractor hereby undertakes to the Farmer that all work to be done or services to be performed by the Contractor under the provisions of this Agreement shall be so done or performed by the Contractor personally or under the Contractor's personal supervision or, subject to the Farmer's prior agreement by sub-contract. The Contractor shall not assign the Contractor's rights or obligations in terms of this Agreement.

3 Commencement and Duration

- 3.1 This Agreement shall take effect from the Commencement Date and shall continue in effect until the Date of Termination or until the earlier termination of this agreement in accordance with the provisions for termination hereinafter contained. [Declaring that at the commencement the Farm will be available progressively as each field is available for ploughing and sowing and similarly the fields will be released from this Agreement as each field is harvested in the final year.] Notwithstanding the removal of the last crop the fiduciary obligations under this Agreement shall remain in full force and effect until the final accounting to each party of the sums due to each other under this Agreement in respect of the final season's crop.

4 Extent of Farm

- 4.1 The extent of the Farm to be subject to this Agreement shall be agreed annually in advance between the Farmer and the Contractor as part of the Farming Policy being initially an area extending to two hundred and eight hectares twenty decimal or on hundredth parts of a hectare (208.28 ha) or thereby of arable ground. During the first Accounting Period the extent of the Farm may be varied by the parties as they may deem necessary, but will otherwise be agreed annually in advance.
- 4.2 In the event that any parts of the Farm are accepted for an Agri-Environmental Scheme, compliance with such scheme or schemes shall be deemed to form part of the Farming Policy and the Contractor shall comply with the terms of such scheme or schemes, and nothing in this Agreement shall give the Contractor any rights to enter, use or occupy the Farm or any buildings thereon other than by the mere permission of the Farmer for the purposes of this Agreement.

5 Farming Business

- 5.1 The Farming Business shall be the business of the Farmer who shall be the registered producer and registered for Value Added Tax.
- 5.2 The Farmer shall remain at all times in full occupation and possession of the Farm but hereby gives leave to the Contractor for the duration of this Agreement to gain access to the Farm

specifically and exclusively for the purpose of carrying out the Contractor's obligations under this Agreement.

6 Farming Policy

- 6.1 The farming policy (the "Farming Policy") including cropping arrangements, fertiliser application and the production of an annual budget under which the Farming Business will operate shall be determined by the Farmer and/or the Managing Agents after consultation with the Contractor. The Farm Policy as at the Commencement Date is the policy in terms of Part 4 of the Schedule.
- 6.2 The Farmer and/or the Managing Agents shall prepare the annual budget with assistance and such information as they may request from the Contractor.
- 6.3 The Farmer and/or the Managing Agents shall prepare a budget for the bank with which the Farm Account is held in order to secure an overdraft facility to service the Farming Business.
- 6.4 The Contractor will be responsible for carrying out and complying with the Farming Policy, together with any written and oral directions that may reasonably be given to the Contractor by the Farmer or the Managing Agents.
- 6.5 In the event that it is not possible for any reason beyond the control of the parties to adhere to the Farming Policy, such revisions thereto shall be made as the Farmer and/or the Managing Agents may determine after consultation with the Contractor.

7 Farm Policy Meetings

- 7.1 The Farmer and/or his Managing Agents and the Contractor shall hold formal meetings two times every year during the period of this Agreement as follows:-
- 7.1.1 No later than end of May to review and monitor the financial position and to discuss issues in relation to the Farming Policy which cannot be dealt with as part of the day to day management of the Farm; and
- 7.1.2 No later than [15th] December when the amount of Farm Produce harvested for the preceding Farming Year will be known, (i) to review and monitor the financial position of and to discuss issues in relation to the Farming Policy which cannot be dealt with as part of the day to day management for the Farm, and (ii) to discuss the forthcoming spring crop cultivations and agree the Farming Policy for the Farming Year.

8 Farm Account

- 8.1 A bank account shall be opened in the sole name of the Farmer at [] or such other Bank and branch as may be determined by the Farmer to be operated by the Farmer (the "Farm Account").

9 Subsidy Entitlements

- 9.1 All Subsidy Entitlements (whether existing or introduced) shall belong to the Farm and the Farmer and shall remain so throughout the duration of this Agreement and at the termination of this Agreement. For the avoidance of doubt the parties agree that the Farmer shall be the active farmer for the purposes of any claim in respect of payments under Subsidy Entitlements. The Farmer shall prepare such forms and applications as may be required in relation to claims for the Subsidy Entitlements and the Contractor shall provide such information and support as the Farmer may reasonably require in connection with such claims, including executing such documents as may be required to procure the registration of such entitlements in the name of the Farmer.

10 Fixed Equipment

- 10.1 The Fixed Equipment shall belong to the Farmer and shall, subject to the terms of clause 10.3 below in relation to the boundary enclosures and the Steading, be maintained by the Contractor to a standard no less than it was in at the Commencement Date, allowing for fair wear and tear.
- 10.2 Except as provided otherwise in terms of clause 10.3 below, all costs relating to the provision of materials used for maintenance and renewal of the Fixed Equipment will be charged to the Farm Account for every respective Accounting Period and a repairs allocation shall be agreed in the annual budget for each Accounting Period for specific and responsive repairs throughout the year.
- 10.3 The Contractor shall be responsible for day to day running repairs to the boundary enclosures and the Steading up the value agreed in the annual repairs allocation, which shall be charged to the Farm Account in terms of clause 10.2 above. Notwithstanding the foregoing, the Farmer shall otherwise, at his own cost, maintain and repair the Steading and boundary enclosures to a standard no less than they were in at the Commencement Date, allowing for fair wear and tear.
- 10.4 Notwithstanding the foregoing clauses 10.1 to 10.3, the Contractor shall be fully liable for all costs of materials and repair or replacement of any Fixed Equipment (including the boundary enclosures and the Steading) damaged by the reckless, negligent or deliberate act of the Contractor.

11 Ownership of inputs and proceeds of crop sales

- 11.1 All seed, fertiliser, spray and other chemicals in amounts in accordance with the Farming Policy shall be purchased by the Contractor and paid out of the Farm Account.
- 11.2 Crops in the ground and crops when harvested shall be owned by the Farmer.
- 11.3 All costs relating to the purchase, haulage and storage of the seed, fertiliser, spray and other chemicals will be paid out of the Farm Account and will be taken into account in the preparation of accounts and calculation of the Net Profits.
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12 Valuation

- 12.1 At the Commencement Date, at the beginning of each Accounting Period, and at the termination of this Agreement, there shall be a valuation of the relevant assets in accordance with sub-clause 12.4 of this clause, by agreement between the Contractor and the Farmer or his Managing Agents, failing which by a Valuer appointed by the Farmer and the Contractor.
- 12.2 If the Farmer and the Contractor cannot agree to the appointment of a single Valuer within 30 days of the due date each party shall within 14 days thereafter appoint a Valuer and the Valuers so appointed shall forthwith appoint an Umpire who shall in the event the Valuers are unable to agree and at the request of either Valuer give a decision which shall be final and binding on the parties. The costs of the Umpire shall be equally divided between the parties.
- 12.3 If either the Farmer or the Contractor do not appoint a Valuer within the period specified in sub-clause 12.2 above or if the appointed Valuers do not themselves appoint an Umpire within 14 days of the date when the last of them is so appointed then such Valuer or Umpire shall be appointed by the President for the time being of the Royal Institution of Chartered Surveyors at the request of the first party to apply.
- 12.4 The valuation referred to in sub-clause 12.1 of this Clause shall be used in the calculation of the Net Profits and shall cover the following items as described:-
- 12.4.1 Crops sown including grass on a seeds, labour, lime, fertiliser, sprays and machinery basis plus cultivations on a labour and machinery basis;
- 12.4.2 Produce in store including straw and fodder at net realisable value and dead stock;
- 12.4.3 Seeds, fertilisers, chemicals, drier fuels and other stores at cost or net realisable value whichever is the lesser.
- 12.5 A simplified valuation may be carried out by mutual agreement on [] in each year of this Agreement.

13 Remuneration

- 13.1 The Farmer shall in or in respect of each Accounting Period pay to the Contractor a fixed sum (hereinafter called "the Contractor's Basic Fee"). The Contractor's Basic Fee (which shall be £247 per Cropping Hectare per year exclusive of VAT at the Commencement Date) shall be payable each year during the currency of this Agreement as follows:-
- 13.1.1 50% of the Contractor's Basic Fee shall be payable on 30th June;
- 13.1.2 30% of the Contractor's Basic Fee shall be payable on the 31st December; and

13.1.3 the balance of the Contractor's Basic Fee (being 20%) shall be payable on the 31st day of May following the end of the relevant Accounting Period or such earlier date as may be agreed between the parties if the accounts for the relevant Accounting Period have been finalised.

In the event that any Accounting Period is greater than or less than twelve full calendar months, then the Contractor's Basis Fee shall be apportioned on a daily basis.

13.2 The Farmer shall be entitled to retain and deduct from the Net Profits in respect of each Accounting Year a fixed sum (which shall be £74 per Cropping Hectare per year at the Commencement Date) (hereinafter called the "Farmer's First Charge"). The Farmer shall deduct the Farmer's First Charge from the Farm Account each year during the currency of this Agreement as follows:-

13.2.1 50% shall be deducted on 30th June; and

13.2.2 50% shall be deducted on the 31st day of May following the end of the relevant Accounting Period, or such earlier date as may be agreed between the parties if the accounts for the relevant Accounting Period have been finalised.

13.3 The Farmer shall in or in respect of each Accounting Period pay to the Contractor a variable sum (hereinafter called the "Divisible Surplus") consisting of :-

13.3.1 ninety per cent (90%) of the amount of the Rateable Profit in respect of the first £123 per Cropping Hectare of the Rateable Profit; and

13.3.2 fifty per cent (50%) of the amount of the Rateable Profit in respect of the balance of the Rateable Profit which exceeds £123 per Cropping Hectare (if any).

The Divisible Surplus shall be paid by a single instalment within 28 days after the accounts of the Farm for that Accounting Period shall have been ascertained and vouched by the Managing Agents whose certificate shall be final and binding upon both parties for the purpose of this Clause PROVIDED ALWAYS that payment of the Divisible Surplus may at the discretion of the Managing Agents be withheld either in whole or in part until such time as the crops for that Accounting Period shall have been actually sold and the monies therefor received.

13.4 The amount of the Divisible Surplus due to the Contractor shall be deemed to be exclusive of VAT.

13.5 In the event that the Net Profits are less than the Contractor's Basic Fee for any Accounting Period, the difference between the Net Profits and the Contractor's Basic Fee shall be carried forward to the following Accounting Period as a loss to the Farming Business, deducted as an expense of that year or years in calculating the Net Profits, and paid out to the Contractor [as soon as possible/in the next Accounting Period].

- 13.6 In the event that the Net Profits are less than the total of the Contractor's Basic Fee and the Farmer's First Charge for any Accounting Period, the difference between the Net Profits and the total of the Contractor's Basic Fee and the Farmer's First Charge shall be carried forward to the following Accounting Period as a loss to the Farming Business, and deducted as an expense of that year or years in calculating the Net Profits. The carried forward Contractor's Basic Fee and Farmer's First charge shall be paid out to the Contractor and Farmer respectively [as soon as possible/in the next Accounting Period]. In the event that the Net Profits for the following Accounting Period are not able to bear both payments, the Contractor's Basic Fee shall be paid first, and any shortfall carried forward to the next Accounting Period in terms of this clause, and so forth.
- 13.7 The figures referred to in this Clause 13 (including the Farmer's First Charge) shall apply for the period of this Agreement but shall be subject to review and re-negotiation, the first review to take effect from the end of the third Accounting Period and the end of every third Accounting Period thereafter during the currency of this Agreement, provided always that any change to the figures must be agreed at least six months prior to the commencement of the relevant Accounting Period.

14 The Farmer's Responsibilities

The Farmer:-

- 14.1 shall be responsible for the establishment of the Farming Policy as more particularly described in Clause 6.1 hereof, and for any changes that may be required from time to time;
- 14.2 acknowledges a fiduciary duty towards the Contractor;
- 14.3 or his Managing Agents shall promptly prepare and keep properly books of account giving a true and fair view of the Farming Business for the purpose of verifying the Net Profits and such books shall be available for inspection by each of the parties and their respective advisers at all reasonable times either at the Farm, at the offices of the Farmer or at the offices of the Managing Agents.
- 14.4 agrees that a profit and loss account giving a fair and accurate record of the business of the Farmer in respect of the Farm shall be promptly prepared by the Farmer or the Managing Agents in respect of every Accounting Period during the currency of this Agreement and a copy of the same shall be supplied to the Contractor.
- 14.5 gives leave to the Contractor to enter on the Farm solely for the purpose of carrying out the Contractor's obligations hereunder the Farmer remaining at all times in full occupation of the Farm and nothing in this agreement shall give the Contractor any rights to enter, use or occupy the Farm or any buildings thereon other than by mere permission of the Farmer for the purposes of this Agreement.

- 14.6 shall take all reasonable and practical steps to keep the Farm free from infestation by insects and other pests and to destroy rabbits, moles, rats and other vermin and to control game, the onus being on the Contractor to keep the Farmer informed of any such problems; and declaring for the avoidance of doubt that nothing in this Agreement shall give the Contractor the right to shoot winged or ground game.

15 The Contractor's Responsibilities

The Contractor, in accordance with the Farming Policy at his own expense:-

- 15.1 at his own expense shall carry out all reasonable and proper means to maintain and improve and the performance of the Farming Business and to protect and further the reputation and interests of the Farmer in respect of that business;
- 15.2 at his own expense shall cultivate and manage the Farm, subject to the terms of this Agreement, so that the full and efficient use of the land for agriculture is obtained, employing good agricultural practice according to the nature of the farming practised and so as to preserve the fertility of the soil and to keep the land in good order;
- 15.3 shall provide and incur the cost of all expertise, manpower, equipment and machinery, and shall be responsible for carrying out all such agricultural works as are reasonably required to carry out or wind down the Farming Business;
- 15.4 shall provide, maintain and operate all machinery and equipment (including fuel at the cost of the Contractor) until this Agreement is terminated;
- 15.5 shall be responsible for marketing and sale of the Farm Produce and shall use his best endeavours to ensure that the best price is achieved from the Farm Produce;
- 15.6 shall provide assistance to the Farmer on other land owned by the Farmer at machinery ring rates;
- 15.7 shall keep such records of the Farming Business for the purposes of this Agreement as may be reasonably required by the Farmer for the verification of all matters hereunder and in particular will keep and provide sufficient details and vouchers as will enable the books of the Farming Business to be kept properly posted and all compensation, premiums, subsidies and grants payable to the Farmer under any statute or statutory or local regulations or bye-laws or otherwise to be readily determined.
- 15.8 acknowledges that the Farmer wishes to obtain and retain all Subsidy Entitlements and payments due in connection with Agri-Environmental Schemes and shall (i) maintain production at such a level as to preserve in full all Subsidy Entitlements and any other subsidies or compensation payments and Agri-Environmental Scheme payments as required by the Farmer; (ii) use his best endeavours to ensure that any payments relating thereto are not lost or reduced through non-compliance with scheme rules; (iii) use his best endeavours at the expense of the Farmer to assist the Farmer in obtaining any further Subsidy Entitlements and securing any available subsidies and
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compensation payments and/or Agri-Environmental Scheme payments as requested by the Farmer;

- 15.9 shall ensure that the Farmer remains in compliance with all existing commitments or schemes including the requirements of any Single Farm Payment scheme (or successor thereof), Agri-Environmental Scheme or any SDRP scheme applicable to the Farm;
- 15.10 acknowledges a fiduciary duty towards the Farmer;
- 15.11 shall comply with all Statutory Obligations, schemes or conditions of grants, Cross Compliance and Subsidy Entitlement conditions relating to the operation of the Farm and the Farming Business including, without prejudice to the foregoing generality:-
- 15.11.1 the Health and Safety at Work Act 1974 and any other statutory provisions or common law duties and any legislation amending the same, and will supply the Farmer with copies of the Health and Safety Policy which the Contractor has prepared on request and the Contractor will ensure that he has appropriate equipment and training to carry out his duties in a safe manner and shall be responsible for ensuring that any sub-contractor or employee shall comply with this sub-clause in like manner;
 - 15.11.2 the Control of Pollution Act 1974, the Environmental Protection Act 1990, the Water Act 1989, Control of Asbestos at Work Regulations 2002 and other legislation to similar effect and any legislation amending the same and all regulations and codes of practice issued under or in relation to any such statutes;
 - 15.11.3 the provisions of the Single Farm Payment Scheme under Council Regulation 1782/2003 and the conditions necessary to enable the Farmer to claim payments under the Single Farm Payment Entitlement, and all conditions attaching to any Agri-Environmental Scheme or other schemes entered into by the Farmer;
 - 15.11.4 the Welfare of Livestock Regulations 1990 and any legislation amending the same and all other statutes and regulations relating to the keeping and welfare of livestock;
 - 15.11.5 the Nitrate Vulnerable Zone (NVZ) regulations, including keeping records sufficient to comply with the NVZ regulations, and completion of the NVZ plan to be submitted by the Farmer;
 - 15.11.6 the Scottish Quality Crops standards and the Scottish Food Quality Certification scheme;
 - 15.11.7 the Good Agricultural and Environmental Condition standards.
- 15.12 shall keep such records, receipts and vouchers in respect of the Farming Business as may reasonably be required by the Farmer or the Managing Agents and in particular shall keep and provide sufficient details so that all Single Farm Payments, subsidies, compensation and grants
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payable to the Farmer under any statute or statutory rule or regulation or any local or regional rules or regulations or byelaws (whether European, National or otherwise) may be readily determined and generally so that the rights of the Farmer can be accurately ascertained and safeguarded. Such records, receipts and vouchers shall be made available to officials conducting an inspection, and shall be copied to the Farmer, and the principals thereof delivered to the Farmer at the termination of this Agreement;

- 15.13 shall exercise the rights of access contained in the Farmer's title to the Farm in accordance with the titles and any rights already acquired by usage prior to the Commencement Date;
- 15.14 shall indemnify the Farmer for any failure with respect to the Contractor's obligations under this Agreement;
- 15.15 The Farmer reserves the right to require an audit of the foregoing record keeping by Scottish Agricultural College or a similarly qualified expert appointed by the Farmer or his Managing Agents, and the Contractor will comply with the requirements or recommendations arising from such an audit.

16 Farmer's Consent

The Contractor shall not without the prior written approval of the Farmer:-

- 16.1 enter into any contract or agreement for any material alteration or improvement of the Farm or buildings thereon or other property of the Farmer;
- 16.2 communicate orally or in writing with SGRPID or any government department on behalf of the Farmer with respect to determining production rights such as Single Farm Payment or LFASS or other Subsidy Entitlements;
- 16.3 enter into negotiations or discussions concerning any dealing with variation, surrender or disposal of the Subsidy Entitlements or any of them.
- 16.4 draw, accept or endorse any bill on behalf of the Farmer or any way pledge the credit of the Farmer or give any security by the Farmer; and
- 16.5 contract to sell Farm Produce or items in store, except when duly authorised by the Farmer.

17 Insurance and Indemnity

- 17.1 The Farmer shall insure solely for the Farmer's own benefit and against loss or damage of:
 - 17.1.1 the buildings, fixed equipment and plant on the Farm;
 - 17.1.2 any crop in storage on the Farm.

- 17.2 The Farmer shall insure solely for the Farmer's own benefit against any liability loss claim or proceedings whatsoever arising under any statute or at common law in respect of personal injury to or the death of any person whosever whilst upon the Farm but without prejudice to the Contractor's obligations under Clause 17.3;
- 17.3 The Contractor shall insure solely for the Contractor's own benefit and against such loss or damage as the Contractor may select the machinery, plant and all other property owned by the Contractor or in the Contractor's custody;
- 17.4 The Contractor shall be liable for and shall indemnify the Farmer against loss, claim or proceedings whatsoever arising under any statute or at common law in respect of personal injury to or the death of any person arising out of or in the course of or caused by the implementation of this Agreement unless due to any act or neglect of the Farmer or any person for whom the Farmer is responsible, including tenants of the Farmer (but excluding the Contractor's employees) unless the liability, loss, claim or proceedings arises as a result of any act or omission of the Farmer;
- 17.5 The Contractor shall be liable for and shall indemnify the Farmer against any expense, liability, loss, claim or proceedings:
- 17.5.1 In respect of any injury or damage to any property (fair wear and tear excepted) arising out of or in the course of or caused by the implementation of this Agreement;
 - 17.5.2 arising from failure on the part of the Contractor to fulfil his obligations under this Agreement; and
 - 17.5.3 without prejudice to the generality of Clause 17.5.2, arising from a breach by the Contractor of Cross Compliance.
- 17.6 Without prejudice to his liability to indemnify the Farmer under Clauses 17.4 and 17.5 hereof the Contractor shall maintain such insurances as are necessary to cover liability of the Contractor under those clauses subject to the following provisions:-
- 17.6.1 Insurance in respect of claims for personal injury to or the death of any person under a contract of service or apprenticeship or similar with the Contractor and arising out of and in the course of such person's employment shall comply with the Employers Liability (Compulsory Insurance) Act 1969 and any statutory orders made thereunder or any amendment or re-enactment thereof;
 - 17.6.2 the insurance for all other claims to which this clause applies shall be for a minimum limit of indemnity of £5,000,000 on any one occurrence or series of occurrences arising out of one event, such sum being subject to review on the third anniversary of the Date of Commencement and every third year thereafter, by agreement between the parties, failing which by arbitration in terms of clause 25 of this agreement; and
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- 17.6.3 the insurance shall be effected with the underwriters approved by the Farmer (such approval not be unreasonably withheld).
- 17.7 Copies of the relevant insurance policies effected by the Contractor or the Farmer as the case may be shall be provided if requested by the Farmer or the Managing Agents or the Contractor as the case may be; and
- 17.8 The Contractor undertakes to ensure that any sub-contractor hired by the Contractor in connection with this Agreement shall comply with the insurance and other obligations of the Contractor under this clause as if such sub-contractor were the Contractor for all purposes of this clause and indemnifies the Farmer in respect of all liability, expense, loss, claim or proceedings arising from any breach of such undertaking.
- 18 Termination**
- 18.1 This Agreement may be terminated:-
- 18.1.1 immediately and automatically if either part shall become apparently insolvent or enter into bankruptcy (whether voluntary or compulsory) or shall compound with his or her or its creditors by way of voluntary arrangement, deed of arrangement or otherwise or shall take any steps to present a petition for bankruptcy.
- 18.1.2 by the Farmer giving not less than 28 days notice in writing at any time to the Contractor in any of the events following:-
- 18.1.2.1 if there shall be any persistent breach by the Contractor of the terms of this Agreement which has not been remedied within 28 days of written notice by the Farmer or the Managing Agents to the Contractor.
- 18.1.2.2 if the Contractor shall after proper warning fail to comply with any lawful directions given by the Farmer or the Managing Agents in accordance with the provisions hereinbefore contained.
- 18.1.2.3 if the said Contractor shall through illness accident or any other cause be incapacitated or prevented from carrying on his duties hereunder for a continuous period of one month or 40 days in any continuous period of 6 months.

Provided that if termination takes place under clauses 18.1.2.1, 18.1.2.2 and 18.1.2.3 above, the Farmer shall for the duration of the notice have the right to take whatever immediate farming measures the Farmer reasonably thinks fit to preserve the implementation of the Farming Policy, the reasonable costs or reasonable estimated costs (as the case may be) of which may at the discretion of the Farmer be deducted from the Contractor's Basic Fee on termination.

18.1.3 by the Farmer giving to the Contractor not less than six months notice in writing at any time of his intention to cease the business of farming on the Farm or to sell part or whole of the Farm.

18.2 This agreement will be terminated through effluxion of time of Date of Termination, without any requirement on either party to give notice to the other, provided that it has not been earlier terminated in terms this clause 18.

19 Payments on Termination

19.1 The termination of this Agreement under clause 18 above, or by effluxion of time, or by operation of law shall be without prejudice to the entitlement of the Contractor to the Contractor's Basic, the Divisible Surplus or the Super Profit under clause 13 above, but subject to the following provisions:-

19.1.1 should this Agreement terminate under clause 18.1, 18.1.2, 18.1.3 or 18.2 or otherwise than on an Accounting Date in any year then the Contractor shall be entitled (in addition to a proportionate part of the Contractor's Basis Fee calculated on a daily basis up to the date of actual termination) to such proportion of the Divisible Surplus and the Super Profit payable in respect of the Accounting Period during which this Agreement shall come to an end as shall be fair and equitable having regards to the circumstances of the case and the same shall be payable as mentioned in clause 14 of this Agreement; and

19.1.2 the release of the Contractor's Basic Fee, Divisible Surplus or Super Profit under clause 19.1.1 shall not be due until the lapse of three calendar months immediately following the date of termination or the harvest whichever is the earlier.

19.2 Upon termination of this Agreement under clause 18, or by effluxion of time, or by operation of law the Contractor shall be entitled and obliged to remove all of his property (including his machinery and equipment) from the Farm.

20 Resumption

20.1 If the Farmer shall wish to use any part of the Farm for a purpose other than agriculture the Farmer may upon giving not less than three months notice in writing to the Contractor terminate this Agreement in relation to that part and in that event the Net Profits for the Accounting Period in which such partial termination shall be effected shall for the purpose of computing the Rateable Profit for the Accounting Period be adjusted to such figure as would have represented the Net Profits for that Accounting Period had this Agreement not been partially terminated as aforesaid PROVIDED ALWAYS that if this Agreement shall by reason of one or more notices under this Clause have been partially terminated in relation to an area amounting in aggregate to not less than one-half of the area specified in Part One of the Schedule the Contractor may upon giving not less than three months written notice to the Farmer elect to treat this Agreement as having been

terminated in full and in that event the sum due to the Contractor up to the date of termination shall be calculated in accordance with Clause 18 hereof.

Any adjustment of the Net Profits shall be calculated as if the profits earned from any part of the Farm were the same as those earned from any other part of the Farm having an area equal to such first mentioned part.

20.2 In addition to the Farmer's rights of resumption in terms of clause 20.1, if the Farmer's lease of Lower Plaidy 39.61 hectares is terminated by resumption, renunciation, or otherwise, then the Farmer shall be entitled to terminate this Agreement in relation to that part of the Farm upon giving not less than three months notice in writing to the Contractor. In that event the Net Profits for the Accounting Period in which such partial termination shall be effected shall for the purpose of computing the Rateable Profit for the Accounting Period be adjusted to such figure as would have represented the Net Profits for that Accounting Period had this Agreement not been partially terminated as aforesaid. The Farmer's rights in terms of this clause shall apply without any right on the part of the Contractor to terminate this Agreement in full in terms of clause 20.1.

20.3 The Farmer shall be entitled to retain up to thirty hectares for potato lets in each Accounting Period.

21 Right to grant wayleaves and servitudes

21.1 The Farmer has agreed to grant a new servitude right over the farm of [REDACTED] for an electricity cable to service to a wind farm being developed on neighbouring ground. The new servitude may require certain areas to be disturbed during cropping, and this shall be deemed to be in accordance with the Farm Policy. The Farmer shall use his reasonable endeavours to give the Contractor notice prior to the works being carried out. Any compensation payable to the Farmer from the developer for crop damage or loss shall be credited to the Farm Account as income.

22 Managing Agents

22.1 The Managing Agents have been authorised by the Farmer to sign all notices or directions to be given in pursuance of this Agreement on behalf of the Farmer.

22.2 All certificates as to the accounts of the Farm the Net Profits or the Rateable Profit or of any other matters which are by this Agreement to be given by the Managing Agents shall be final and binding upon both parties.

23 No lease or partnership

23.1 It is hereby declared between the parties hereto that nothing in this Agreement shall constitute a partnership between the Contractor and Farmer or create a tenancy of the Farm or a licence for the exclusive occupation of the same.

24 Assignment

24.1 The Contractor shall not be entitled to assign or otherwise deal with the benefit of this Agreement.

25 Arbitration

25.1 In the event of a dispute between the parties touching the construction or effect of this Agreement or any matter relating or incidental thereto such dispute shall be referred to a single arbiter under the Arbitration (Scotland) Act 2010 mutually appointed (or failing such agreement, by the President for the time being of the Scottish Branch of Royal Institution of Chartered Surveyors on the applicable of either party hereto) whose decision shall be final and binding upon the parties hereto (save for an appeal on a point of law, but not finding in fact, or otherwise as provided for in terms of the said Arbitration (Scotland) Act 2010) and the expenses of any arbitration shall be borne as directed by the arbiter.

26 Notices

26.1 Any notice or direction given by the Farmer (or the Managing Agents on behalf of the Farmer) or Contractor in pursuance of the provisions of this Agreement shall be deemed to have been properly given if addressed to the addresses noted above of the Farmer or Contractor and served by personal service by Sheriff Officers, sent by Royal Mail Guaranteed Delivery Post (or such equivalent service as may replace Guaranteed Delivery Post from time to time) and shall be deemed to have been served on the date of personal service or posting as the case may be.

26.2 In the event that any notice or direction falls to be served on or by a date occurring on a Saturday, Sunday or public holiday, service must take place on or by the first working day immediately prior to the said Saturday, Sunday or public holiday.

27 Farmer's entitlement to deal

27.1 NOTHING in this Agreement shall prevent the Farmer or the Managing Agents on behalf of the Farmer from carrying out or from engaging other contractors to carry out any operations (not being operations contemplated in this Agreement as normal obligations of the Contractor) on the Farm with the prior consent of the Contractor such consent not to be unreasonably withheld PROVIDED that the Contractor shall first be given the opportunity to carry out such operations himself at a reasonable rate of remuneration.

28 Entire Agreement

28.1 This Agreement represents the entire agreement between the parties, and supersedes all prior agreements. The parties agree that any variation to this Agreement requires to be in writing and signed by both parties.

29 Governing Law

29.1 This Agreement shall be governed by the Law of Scotland:

IN WITNESS WHEREOF

SCHEDULE

THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING CONTRACT FARMING AGREEMENT
BETWEEN THE FIRM OF [REDACTED] AND THE [REDACTED]

PART ONE

(Description of the Farm)

The "Farm" means those parts of the farm and lands of [REDACTED]
[REDACTED] extending to [] hectares or thereby [as shown within the fields numbered [] on the Plan]
and detailed in the Field Schedule together with the farm buildings shown coloured [] on the Plan
together with the fixtures, fittings and equipment as shall be agreed between the Farmer (or the Managing
Agents) and the Contractor.

[PLAN REQUIRED SHOWING FIELDS, STEADINGS AND EXCLUDED AREAS SUCH AS HOUSES]

PART TWO
(The Net Profits of the Farm)

The net profits of the Farm for an Accounting Period shall be the profits of the Farm as certified by the Managing Agents after providing for all expenses and outgoings including (without prejudice to the generality of the expression "all expenses and outgoings") the following outgoings in so far as they relate to that Accounting Period:-

- 1 All rates, taxes and other outgoings payable in respect of the Farm other than Income Tax, Corporation Tax, Capital Gains Tax and Stamp Duty Land Tax (or their equivalents).
- 2 All repairs to the Farm except repairs to the structure of buildings.
- 3 The Contractor's Basic Fee.
- 4 The fee of the Managing Agents calculated at the rate of £2,500 per annum at the commencement of the agreement and to be reviewed by agreement between the parties in the annual budget for the Farm (and failing agreement by arbitration in terms of this agreement) together with reasonable out of pocket expenses.
- 5 Such provision as the Farmer or the Managing Agents shall consider necessary in respect of bad and doubtful debts.
- 6 Interest charges incurred by the Farmer on any debit balance on the Farm Account, bank overdraft or loan account for the purpose of farming the Farm.
- 7 The agreed book-keeping, accountancy and professional fees.
- 8 The cost of the valuation referred to at Clause 12 hereof.
- 9 Any irrecoverable VAT.
- 10 All contracting charges actually incurred on the Farm.
- 11 The total costs of materials for maintenance or renewal of the Fixed Equipment.
- 12 The total costs of maintenance pursuant to Clause 10 of the foregoing Agreement.
- 13 The costs of all crops, seed, fertiliser, spray, chemicals and other inputs, adjusted to reflect any costs accrued forward in the annual valuation, together with the costs of haulage and storage, including off farm storage and third party haulage.
- 14 Any shortfall in the Net Profits for the previous year or years as defined in clause 13.7.

And the following income:-

- 1 The sale of all crops excluding fodder crops.
- 2 All crops, stores or produce used by the Farmer otherwise than for the purposes of the Farming Business.
- 3 Any interest payable in respect of a credit balance on the Farm Account.
- 4 Produce in store at net realisable value in accordance with clause 12 hereof.
- 5 Refunds of VAT except those listed above.
- 6 Monies received from any insurance claims relevant to the Farming Business.

The following shall not be taken into account in the calculation of the Net Profits:-

- 1 Income from any potato lets or grassland let to third parties by the Farmer.
- 2 Any agricultural production grants or subsidies.

PART THREE
(The Rateable Profit of the Farm)

The rateable profit for an Accounting Period shall mean the amount certified by the Managing Agents to be the Net Profits of the Farm for that Accounting Period less the Contractor's Basis Fee and the Farmer's First Charge.

PART FOUR
(Farm Policy)

TO BE DISCUSSED -

Spring/winterCrops

Arable/grazing

cropping on rotation

The Farmer shall be entitled to retain up to []
and [] hectares for potato lets.

] hectares of grassland for grazing or grass lets

