



Title Information: INV20358

Search summary

Date/Time of search	08-09-2020 13:35:20
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Payment reference number	WZUH-SSNK-MATV-MRN5
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Section A**INV20358**

Property

Date of first registration	03-10-2007
Date title sheet updated to	24-01-2014
Hectarage Code	82.3
Interest	TENANT
Map Reference	NH7450
Title Number	INV20358
Cadastral Unit	INV20358
Sasine Search	17
Property address	BALNAGLACK FARM, DALCROSS, INVERNESS

Description Subjects at BALNAGLACK FARM, DALCROSS, INVERNESS edged red on the Title Plan being 82.3 hectares in measurement on the Ordnance Map. Together with the rights as specified in the Lease in Entry 3 of the Burdens Section.

Notes 1. The minerals are excepted. The conditions under which the minerals are held are set out in the Lease in Entry 3 of the Burdens Section.

Short Particulars of the Lease under which the above subjects are held

Entry No	Parties	Date of Recording or Registration	Term
1	Moray Estates Development Company Limited to Castle Stuart Golf LLP	Land Register 03-10-2007	99 Years from 20 June, 2006

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Section B**INV20358**

Proprietorship

CASTLE STUART GOLF LLP incorporated under the Limited Liability Partnerships Act 2000 (Registered Number S0300920) and having its registered office at Kinburn Castle, St. Andrews, KY16 9DR.

Entry number	1
Date of registration	03-10-2007
Date of Entry	20-06-2006
Consideration	Rent £15910.75 per annum (subject to review)

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Section C**INV20358**

Securities

Entry number	1
Specification	Bond and Floating Charge by said CASTLE STUART GOLF LLP in favour of LLOYDS TSB SCOTLAND plc, (incorporated in Scotland registered company number 95237), a company incorporated under the Companies Acts, Registered Office Henry Duncan House, 120 George Street, Edinburgh EH2 4LH dated 1 May. 2008 and registered in the Register of Charges 15 May 2008.
Date of registration	
Notes	1. The above Floating Charge and the Standard Securities in entries 2 and 3 are affected by the ranking provisions in the Ranking Agreement registered 8 June 2011.
Entry number	2
Specification	Standard Security by said CASTLE STUART GOLF LLP to HIE INVERNESS AND EAST HIGHLAND.
Date of registration	01-11-2007
Notes	1. The above Standard Security the Floating Charge and the Standard Security in entry 2 are affected by the ranking provisions in the Ranking Agreement registered 8 June 2011.
Notes	2. The above Standard Security was assigned to HIGHLANDS AND ISLANDS ENTERPRISE established by the Enterprise and New Towns (scotland) Act 1990 and having their Principle Office at Cowan House, Inverness Retail and Business Park, Inverness, IV2 7GF conform to Assignment registered 8 June 2011
Entry number	3
Specification	Standard Security by said CASTLE STUART GOLF LLP to LLOYDS TSB SCOTLAND plc, (incorporated in Scotland registered company number 95237), a company incorporated under the Companies Acts, Registered Office Henry Duncan House, 120 George Street, Edinburgh EH2 4LH over the subjects in this Title and other subjects.
Date of registration	29-04-2008
Notes	1. The above Standard Security the above Floating Charge and the Standard Security in entry 1 are affected by the ranking provisions in the Ranking Agreement registered 8 June 2011.

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Section D

INV20358

Burdens

Number of Burdens: 7

Burden 1

Disposition by Mary Evelyn Cochrane or Baillie to Moray Estates Development Company and their assignees, recorded G.R.S. (Inverness) 25 June, 1963, of area or piece of ground in Parish of Petty extending to 15.166 acres, part of which the subjects in this Title form part, contains the following burdens:

UNDER the following declarations:

(First) That the fences separating the subjects hereby disposed from the adjoining ground lying generally to the south west of the subjects hereby disposed are mutual and shall be maintained mutually by my said disponees and their foresaids and by Annie Horne and Robert Wolseley Haig being the proprietors of the said adjoining lands and their respective successors in all time coming,

(Second) that the subjects hereby disposed are subject to a right of access for both pedestrian and vehicular traffic in favour of said Annie Horne and here successors as proprietors of part of the adjoining ground and that from the public road leading to Auld Petty churchyard to the said adjoining ground belonging to said Annie Horne and

(Third) That the subjects hereby disposed are subject to a right in favour of the said Robert Wolseley Haig and his successors as proprietors of the remainder of the said adjoining ground of drainage into the Old Glebe forming the subjects hereby disposed and a right to use the drainage system and cesspool as at present so used with a right of access thereto through and across the Subjects hereby disposed for inspection, maintenance and renewal thereof on payment of any damage thereby caused.

Burden 2

Agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended), recorded G.R.S. (Inverness) 19 June, 2006, among The Highland Council, Moray Estates Development Company and Castle Stuart Golf LLP.

Note: The above Agreement has been Discharge under terms of the Minute of Agreement in Entry 7 of this Section.

Burden 3

Lease by Moray Estates Development Company Limited to Castle Stuart Golf LLP, registered 03 October, 2007, of the subjects in this Title, contains conditions and burdens - Copy in Certificate.

Note 1: Copies of Deed plans 1, 2, 3, 4 and 5 annexed to the above Lease are included in this Title Sheet as Supplementary Plans 1, 2, 3, 4 and 5 respectively to the Title Plan.

Note 2: The foregoing Lease was executed after 1 September 1974 and is subject to the provisions of Part II of the Land Tenure Reform (Scotland) Act 1974.

Burden 4

Deed of Servitude containing Disposition by Moray Estates Development Company Limited, proprietors of (One) subjects described in Disposition by Morton Gray Stuart, Earl of Moray, to Moray Estates Development Company, recorded GRS (Inverness) 15 Dec. 1926 and (Two) ground, described in Disposition by Mark Mary Evelyn Cochrane or Baillie to Moray Estates Development Company, recorded GRS (Inverness) 25 Jun. 1963 and forming part of the Subjects in this Title ("The Burdened Property"), to George Philip, proprietor of the subjects known as Glebe Steading and registered in the Land Register under Title Number INV 10381 as hatched in blue on the Title Plan ("The Benefited Property"), registered 18 Jan. 2008, of all necessary heritable and irredeemable servitude rights to drain sewage and other ordinary domestic effluent from the Benefited Property to the septic tank and soakaway to be installed/constructed within the Burdened Property. Together with a right of wayleave through the Burdened Property for the said septic tank and soakaway and for all pipes and other apparatus required for the beneficial use and enjoyment of the said septic tank and soakaway and right to enter on the Burdened Property with equipment and machinery as necessary for installing, constructing, inspecting, maintaining, repairing, and renewing the said septic tank, soakaway, pipes and relative apparatus, contains the following conditions:

(a) the Grantee, in exercising the rights hereby conferred shall cause, in so far as reasonably possible and practicable, minimum disruption to the Granter's comfortable use of the Burdened Property.

(b) the Grantee shall maintain in efficient working order the said septic tank, soakaway, pipes and associated apparatus.

(c) the Grantee shall make good to the reasonable satisfaction of the Granter all damage that may be caused to the Burdened Property and the adjoining subjects owned by the Granter as a result of the exercise of the Servitude and shall free relieve and indemnify the Granter from any reasonable loss injury or damage which he may suffer as a result of the exercise of the Servitude by the Grantee.

Burden 5

Deed of Servitude containing Disposition by Moray Estates Development Company Limited, proprietors of (One) subjects described in Disposition by Morton Gray Stuart, Earl of Moray, to Moray Estates Development Company, recorded GRS (Inverness) 15 Dec. 1926 and (Two) ground, described in Disposition by Mark Mary Evelyn Cochrane or Baillie to Moray Estates Development Company, recorded GRS (Inverness) 25 Jun. 1963 part of which (one) and (two) subjects forms part of the Subjects in this Title ("The Burdened Property"), to George Philip, proprietor of the subjects known as Glebe Steading and registered in the Land Register under Title Number INV 10381 as hatched in blue on the Title Plan ("The Benefited Property"),

registered 18 Jan. 2008, of all necessary rights to create a road over the route tinted yellow on the Title Plan ("the Original Access") together with a heritable and irredeemable servitude right of access and egress over said Original Access for pedestrian and vehicular traffic for all necessary purposes with a right to upgrade the same to such a standard as the Grantee may require, contains the following conditions:

- (a) the Grantee, in exercising the rights hereby conferred shall cause, in so far as reasonably possible and practicable, minimum disruption to the Granter's comfortable use of the Burdened Property.
- (b) the Grantee shall be bound to join with the other users thereof in maintaining the said road in a good state of repair the cost of such maintenance to be apportioned on the basis of the use made thereof.
- (c) the Grantee shall make good to the reasonable satisfaction of the Granter all damage that may be caused to the Burdened Property and the adjoining subjects owned by the Granter as a result of the exercise of the Servitude and shall free relieve and indemnify the Granter from any reasonable loss injury or damage which he may suffer as a result of the exercise of the Servitude by the Grantee.
- (d) The Granter shall be entitled to re-route or close off the Original Access but that subject to the following:-
 - (i) at all times there shall be available to the Grantee a suitable access to the Benefited Property which is no less passable than the Original Access and such alternative access shall lie entirely on land owned by the Granter and for which all necessary planning or requisite consents have been obtained;
 - (ii) in the event of the Granter wishing to permanently re-route or close off the Original Access the Grantee shall first be granted a heritable non-exclusive servitude right of access over such replacement road subject to the same conditions as apply to the Original Access as provided for herein and the Grantee shall discharge all rights to use the Original Access all to the reasonable satisfaction of the Granter; and
 - (iii) The Granter shall keep the Grantee completely free of any expense arising out of such re-routing or closing of as aforesaid except in relation to subsequent maintenance costs as provided for in foregoing condition (b).

Burden 6

Minute of Variation of Lease by (1) Moray Estates Development Company Limited (who and whose successors in right of the Landlord's part are hereinafter referred to as "The Landlord") (2) Castle Stuart Resort Ownership LLP (who and whose successors and assignees are hereinafter referred to as "the Tenant") and (3) HIE Inverness and East Highland ("The Creditor") varies the Lease in Entry in the following terms:

WHEREAS

- (1) The Landlord is the heritable proprietor of the Phase 1 Premises;
- (2) The Tenant is the tenant of the Phase 1 Premises under the aftermentioned Lease,
- (3) The Creditor is the Heritable Creditor under the aftermentioned Standard Security and
- (4) Notwithstanding the terms of the said Lease, the Parties have agreed that the Lease be varied in terms of this Minute of Variation.

IT IS AGREED by the Parties as follows:

1. DEFINITIONS

In this Minute of Variation the following words and expressions shall have the following meanings:

"Lease" means the Lease in Entry 1 above between the Landlord and the Tenant

"Parties" means the Parties to this Minute of Agreement

"Phase 1 Premises" means ALL and WHOLE those areas of ground extending to approximately 205.3 acres or thereby, delineated in red and partly shaded pink on and light yellow on Supplementary Plan 1 to the Title Plan and copy Plan 1 as attached to the Lease in Entry above.

"Standard Security" means the standard security by the Tenant in favour of the Creditor over the tenant's interest in the said Lease.

2. VARIATION

With reference to the Lease.

2.1 The words "and its successors and permitted assignees" in Clause 1.1.48 shall be delete and the words "and in substitution therefore their permitted successors and assignees" shall be inserted in place therefore.

2.2 the number "24" appearing in the 7th, 16th and 17th lines of clause 9.13 shall be deleted and replaced with the number "36".

2.3 With reference to Clause 5.15 following completion of a permitted assignation satisfying the criteria in said clause, the outgoing tenant assigning the tenant's interest under the said Lease shall have no continuing liability for the tenant's obligations under the lease in respect of the period from and after the date of entry under such permitted assignation.

3. GENERAL

3.1 Except insofar as herein provided the whole terms and conditions of the Lease shall continue in full force and effect and

3.2 The Tenant shall pay its own costs and expenses in connection with the preparation and completion of this Minute of Variation and also the Landlord's proper costs and expense in connection with the preparation and completion of this Minute of Variation, together with the costs of registering this Minute of Variation in the Land Register of Scotland and

Burden 7

Minute of Agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended), registered 24 Jan. 2014 among Highland Council the planning authority for the area of Highland in terms of the Town and Country Planning (Scotland) Act 1997, as amended (hereinafter referred to as "the Planning Authority", which expression, where the context so requires or admits, includes its statutory successors as planning authority aforesaid), Moray Estates Development Company Limited (who and whose successors in title to the Development Site (as defined below) are hereinafter referred to as "the Owner") and Castle Stuart Golf LLP and Castle Stuart Resort Ownership LLP (who and whose successors in title to the Development Site in terms of the Leases (as defined below) are hereinafter together referred to as "the Applicant"), contains agreement between said parties in the following terms:

WHEREAS

(A) The Planning Authority has received the Applications (as defined below) for permission to undertake the Development;

(B) The Owner is heritable proprietor of the Development Site;

(C) The Applicant is the tenant of the Development Site in terms of the Leases; and

(D) The parties hereto have agreed to (1) enter into these presents in terms of section 75 of the Town and Country Planning (Scotland) Act 1997 and (2) discharge the Minute of Agreement in Entry 2 of this Section.

THEREFORE the Planning Authority, the Applicant and the Owner have agreed and do hereby agree as follows:-

1. Interpretation

1.1 The definitions in this clause, unless the context otherwise requires, apply in this Minute of Agreement:

"Applications" shall mean the planning applications for the Development being the following: (i) Planning Application Reference 05/00316/FULIN, (ii) Planning Application Reference 05/00688/FULIN, (iii) Planning Application Reference 06/00034/FULIN, (iv) Planning Application Reference 06/00376/FULIN, (v) Planning Application Reference 07/01095/FULIN, (vi) 09/00226/FULIN, (vii) Planning Application Reference 09/00489/FULIN, (viii) Planning Application Reference 10/03580/FUL, (ix) Planning Application Reference 11/04087/FUL, (x) Planning Application Reference 11/04088/LBC, (xi) Planning Application Reference 11/04459/FUL, (xii) Planning Application Reference 12/00584/FUL;

"Development" shall mean the formation of two eighteen hole golf courses, the erection of a clubhouse, the erection of a 57 bedroom hotel, the erection of 28 hotel apartments, the erection of a spa/leisure complex, the erection of a 55 bedroom dormy house, the erection of 120 timeshare units, the erection of a golf maintenance building, the demolition of Balnaglack Road Cottage to form access, the conversion and extension of Balnaglack Farmhouse to accommodate an administration office, the demolition of Balnaglack Farm Steading, the erection of a rangemaster building (including caddy facility), the erection of other facilities ancillary to the golf courses including driving range with driving range building, toilet block, starters gazebo, pitch and putt area, the formation of car parking for the aforementioned facilities, the formation of footpaths and cycle paths (and the associated winning of minerals for land contouring use within the Development Site) and associated infrastructure and facilities;

"Development Site" shall mean the areas shown (i) delineated within the green and light blue boundaries on Supplementary Plan No. 6 to the Title Plan and (ii) delineated within the brown, pink, dark blue and orange boundaries on Supplementary Plan No. 7 to the Title Plan, extending (in aggregate) to Four hundred and twenty four acres and eight decimal or one tenth parts of an acre (424.8 acres) or One hundred and seventy one hectares and ninety two decimal or one hundredth parts of an hectare (171.92 hectares) or thereby at Balnaglack Farm, Dalcross, by Inverness, which areas form (In the First Place) part and portion of those subjects described in disposed by and shown coloured red on the plan annexed and executed as relative to Disposition by Mrs Mary Evelyn Cochrane or Baillie in favour of the Owner dated Fifteenth and recorded in the division of the General Register of Sasines for the County of Inverness on Twenty fifth both days of June Nineteen Hundred and Sixty three; and (In the Second Place) part and portion of those various subjects described in and disposed by Disposition by The Right Honourable Martin Gray Stuart, Earl of Moray, in favour of himself dated First and recorded in the said Division of the General Register of Sasines on Tenth both days of December Nineteen Hundred and Thirteen (Folios 138-154 book 215 Elgin & Forres; Folios 112, 113 & 114 book 415 Inverness; Folios 62 & 63 book 36 Nairn; Folios -51 book 942 Perth; and Folios 30, 31 & 32 book 1296 Fife).

"Landscape Management Plan" shall mean the landscape management plan for the Development Site implemented by the Applicant and from time to time reviewed, all in terms of clause 4;

"Leases" shall mean the leases for the Development Site entered into between the Owner and the Applicant which are variously registered under Title Numbers INV20356, INV20357 and 1NV20358;

"Phase 1" shall mean the first phase of the construction of the Development, which shall include, the erection of the 18 hole golf course (to be known as Castle Stuart Golf Course) and the first part of the maintenance building, all as shown delineated within green boundaries and tinted green on Supplementary Plan No. 6 to the Title Plan;

"Phase 2" shall mean the second phase of the construction of the Development, which shall include, the erection of the clubhouse, access road, car park, rangemaster building (including caddy facility) toilet block and starters gazebo, the conversion and extension of Balnaglack Farmhouse to an administration office, the demolition of Balnaglack Road Cottage, the erection of 56 timeshare units (including the west wing of the timeshare/hotel complex), the erection of

the 55 bedroom dormy house, the erection of the driving range building all as shown delineated within brown boundaries and tinted brown on Supplementary Plan No. 7 to the Title Plan;

"Phase 3" shall mean the third phase of the construction of the Development, which shall include, the erection of a 57 bedroom hotel, spa and leisure club, and the erection of 28 hotel apartments all as shown delineated within pink boundaries and tinted pink on Supplementary Plan No. 7 to the Title Plan;

"Phase 4" shall mean the fourth phase of the construction of the Development, which shall include, the erection of 20 timeshare units (forming the inner east wing of the timeshare and hotel complex) all as shown delineated within dark blue boundaries and tinted dark blue on Supplementary Plan No. 7 to the Title Plan;

"Phase 5" shall mean the fifth phase of the construction of the Development, which shall include, the erection of the second 18 hole golf course (to be known as Lonnie Golf Course) for which planning permission has still to be applied for and obtained and the erection of the second part of the maintenance building, all as shown (with the exception of the maintenance building) delineated within light blue boundaries and tinted light blue on Supplementary Plan No. 6 to the Title Plan;

"Phase 6" shall mean the sixth phase of the construction of the Development, which shall include, the erection of the remaining 44 timeshare units (forming the outer east wing of the timeshare/hotel complex), all as shown delineated within orange boundaries and tinted orange on Supplementary Plan No. 7 to the Title Plan;

"Plan 1" shall mean Supplementary Plan No. 6 to the Title Plan;

"Plan 2" shall mean Supplementary Plan No. 7 to the Title Plan;

"WWTP" shall mean any private waste water treatment plant to be constructed by the Applicant on and which is intended to serve the whole Development Site;

1.2 In this Minute of Agreement:-

1.2.1 words importing one gender shall be construed as importing any other gender;

1.2.2 words importing the singular shall be construed as importing the plural and vice versa;

1.2.3 words importing persons shall include firms, companies and corporations and vice versa;

1.2.4 where any party at any one time comprises more than one person, the obligations and liabilities of that party under this Minute of Agreement shall be joint and several obligations and liabilities of these persons;

1.2.5 references to any Act of Parliament shall include any modification, extension or re-enactment thereof for the time being in force and shall include all instruments, orders,

notices, plans, regulations, bye-laws, permissions and directions for the time being made, issued or given thereunder or deriving validity therefrom;

1.2.6 references to any party shall, where the context so requires, include references to their successors in title; and

1.2.7 references to a clause or clauses shall be to a clause or clauses in this Minute of Agreement.

2. Commencement of Obligations

The obligations in clauses 3-6 shall not have effect unless the decision notices relative to the Applications have been issued.

3. Phasing of the Development

3.1 The Planning Authority acknowledges that the Applicant has completed Phase I of the Development to the reasonable satisfaction of the Planning Authority. It is the intention of the Applicant to continue with the construction of the Development in accordance with the sequencing detailed in clause 3.2 hereof.

3.2 Each subsequent phase of the Development will be brought into use in sequence in terms of this clause and this agreement (Phase 2 followed by Phases 3 and 4 together followed by Phase 5 followed by Phase 6) to the reasonable satisfaction of the Planning Authority before the next phase of the Development is brought into use. The Applicant is permitted to commence construction of Phase 5 of the Development at any time following the grant of planning permission for Phase 5.

3.3 The Applicant undertakes that:-

3.3.1 the Castle Stuart Golf Course will be available for play prior to or contemporaneously with the coming into use of any of the golf clubhouse, hotel and spa and timeshare units; and

3.3.2 the Lonnie Course will be complete, excepting the period required for growing in, prior to or contemporaneously with the coming into use of Phase 6 of the Development.

4. Landscape Management Plan

4.1 The Landscape Management Plan for the Development Site as approved (or to be varied/approved) or imposed by the Planning Authority shall be implemented to the reasonable satisfaction of the Planning Authority.

4.2 The Landscape Management Plan shall be reviewed on a change of circumstance, such change to be determined by the Planning Authority (acting reasonably), but this shall be without prejudice to the right of the Applicant and/or the Owner to initiate discussions on any such change. In the event of a review of the Landscape Management Plan at the instance of either the Planning Authority or the Applicant, then the Applicant undertakes to consult with the Owner in respect of any proposed changes to the Landscape Management Plan and use its reasonable endeavours to give effect to all reasonable representations made by the Owner. The Planning Authority, if having determined that a revised Landscape Management Plan is required, and if (i) a revised Landscape Management Plan has not been submitted by the Applicant within six months of being requested in writing by the Planning Authority, or (ii) a revised Landscape

Management Plan is submitted in terms which the Planning Authority (acting reasonably) determines are unacceptable and the Applicant, the Owner and the Planning Authority having used their reasonable endeavours to agree the terms of such Landscape Management Plan have failed to reach such agreement within a period of six months from the date of request by the Planning Authority, then the Planning Authority shall be entitled, at any time thereafter, to agree with the Applicant and appoint a suitably qualified, party to prepare revisals to the Landscape Management Plan. All costs reasonably incurred by the Planning Authority associated with such appointment shall be reimbursed by the Applicant. The Planning Authority and any suitably qualified party appointed as aforesaid shall at all times act in a reasonable and proper manner in exercising the Planning Authority's rights in terms of this clause and any revisals to the Landscape Management Plan shall be reasonable and shall take into account the reasonable representations of the Owner and shall not be prohibitively or excessively (financially or otherwise) burdensome on the Applicant.

5. Timeshare Units and Hotel Apartments

The Applicant shall be obliged to ensure that each of the timeshare units and hotel apartments on the Development Site shall be occupied for holiday letting or timeshare purposes only and shall not be used as the primary residence of any occupiers. In furtherance of this clause, the Applicant shall be obliged to exhibit evidence of the timeshare letting documentation to the Planning Authority upon being requested to do so.

6. Waste Water Treatment Plant

Any WWTP shall be made available by the Applicant for public adoption by Scottish Water, or its statutory successors, and, until such time as the WWTP may be adopted by Scottish Water, it shall be managed and maintained in accordance with best practice to the reasonable satisfaction of Scottish Water, the Scottish Environment Protection Agency and the Planning Authority.

7. Transfer or Dealing of Owner's Interest

The Owner hereby undertakes that the Owner has not, nor shall it at any time before registration of this Minute of Agreement in the General Register of Sasines or the Land Register of Scotland as appropriate, enter into any missives or agreement to part with ownership or possession of any part of the Development Site, whether by way of sale, lease, licence to occupy, nor grant a security over the whole or any part of the Development Site save for the granting of the Leases to the Applicant excepting a servitude of access proposed to be granted by the Owner in favour of the proprietor of Glebe Cottage.

8. Enforceability

8.1 This Minute of Agreement shall be enforceable at the instance of the Planning Authority against the Owner, and all persons deriving title therefrom as owner of the Development Site or any part or parts thereof.

8.2 The terms of this Minute of Agreement shall be binding on any party deriving any title or interest to the Development Site from the Owner or the Applicant. The parties to this Minute of Agreement shall not be liable for any breach of this Minute of Agreement occurring after such

parties have fully divested themselves of their interest in the Development Site (but without prejudice to the liability of such parties for any subsisting breach).

9. Owner's Warranty

The Owner warrants that, as at the date or dates of the Owner's execution of this Minute of Agreement:

The Owner is heritable proprietor of the Development Site and that the Owner (together with the Planning Authority and the Applicant) hereby consents to this Minute of Agreement being recorded in the General Register of Sasines and/or registered in the Land Register of Scotland as appropriate and also consents to the registration hereof in the Books of Council and Session for preservation and execution as well as publication. The parties hereby agree that the Owner shall be the last to execute this Minute of Agreement.

10. Town and Country Planning (Scotland) Act 1997

This Minute of Agreement is, so far as may be competently done, entered into under and in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997, as amended; provided that if and to the extent that any term, provision, condition or obligation contained in this Minute of Agreement shall be held in any proceedings to be a term, provision, condition or obligation which cannot be competently included in or enforced under an agreement entered into under and in terms of the said Section 75, such term, provision, condition or obligation shall, subject to the terms of this Minute of Agreement, be and remain enforceable to the same extent and effect as if this Minute of Agreement was an agreement in common form between the parties hereto.

11. Discharge/Amendment

11.1 The Planning Authority hereby undertakes, if requested to do so, and if in the opinion of the Planning Authority (acting reasonably) it is appropriate for the Planning Authority so to do, to grant a discharge in such form as the Owner and/or the Applicant may reasonably require in respect of all of the obligations created in terms of this Minute of Agreement. If the planning consent issued to the Applicant in consequence of the Application lapses or ceases to be of effect without being implemented, the Planning Authority undertakes, so far as necessary, to co-operate with the Applicant and/or the Owner, as the case may be, in having the discharge recorded in the General Register of Sasines and/or registered in the Land Register of Scotland as appropriate. The Applicant and/or the Owner shall keep the Planning Authority free of all reasonable expense incurred in the granting of such discharge.

11.2 In the event of a material change in circumstance, the Owner and/or the Applicant may make a request to the Planning Authority for an amendment or amendments to the terms of this Minute of Agreement and the Planning Authority shall, if in the opinion of the Planning Authority (acting reasonably) it is appropriate for the Planning Authority to do so, grant a discharge of this Minute of Agreement and the parties shall contemporaneously enter into a fresh agreement in terms identical to the terms of this Minute of Agreement with such revisions as are necessary to give effect to such amendment or amendments.

12. Dispute Resolution

In the event of any dispute arising under this Minute of Agreement, submissions shall be made to a single arbiter, to be chosen by the Parties to the dispute, and failing agreement as to the choice of a single arbiter, submissions shall be made to a single arbiter to be appointed on the request of Parties by the Sheriff of Grampian, Highlands and Islands at Inverness. Any arbiter appointed, as aforesaid shall be entitled to remuneration or reimbursement of his/her outlays (to be borne equally by the parties to the arbitration) and the award of any such arbiter shall be final and binding on the Parties. The application of section 3 of the Administration of Justice (Scotland) Act 1972 is expressly excluded.

13. Costs

13.1 Except as provided at Clause 13.2 and 13.3, each party shall bear their own costs and expenses in relation to this Minute of Agreement.

13.2 The Applicant agrees to meet the dues of registering this Minute of Agreement in the Books of Council and Session and of obtaining three extracts, one of which shall be for the use of the Planning Authority and also including the whole dues of recording and registering this Minute of Agreement in the General Register of Sasines and/or the Land Register of Scotland as appropriate.

13.3 The Applicant agrees to pay the Planning Authority's reasonable legal expenses in connection with the negotiation and completion of this Minute of Agreement subject to a maximum of Five hundred pounds (£500) Sterling.

14. Governing Law

This Minute of Agreement shall be construed in accordance with, and shall be governed by, the laws of Scotland:

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