Harper Macleod LLP

Direct Agreement

Among

John McKenzie

Glenwyvis Distillery Limited

And

Close Brothers Limited

Subjects: Area at Glenwyvis Distillery, Dingwall

Ref: SBR/DCOO/470944
FAS: 7794

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Direct Agreement

Among

1 **John McKenzie** of Scroggie Farm, The Mount, Uplands, IV15 9TT, and of Flat 2F1, 6 Deanhaugh St, Edinburgh, EH4 1LY (the "**Landlord**");

2 **Glenwyvis Distillery Limited**, a Community Benefit Society registered in the United Kingdom under the Co-operative and Community Benefit Societies Act 2014 (Registered Number 7305) and having its address at Glenwyvis, Scroggie Farm, Dingwall, IV15 9UF (the "**Company**"); and

3 **Close Brothers Limited**, incorporated under the Companies Acts (with registered number 00195626) whose registered office is at 10 Crown Place, London EC2A 4FT who and any of whose successors (whether immediate or derivative) (the "**Finance Provider**").

Whereas:

(A) The Company has entered into a Finance Agreement (as hereinafter defined) with the Finance Provider in connection with the financing of renewable energy equipment;

(B) The Company and the Landlord have entered into a lease pursuant to which the Company has leased an area of land from the Landlord for purposes of location of the renewable energy equipment; and

(C) As consideration for the Finance Provider agreeing to enter into the Finance Agreement, the Landlord has agreed that in certain circumstances the Finance Provider will have the right to, inter alia, procure a transfer of the Company's rights and obligations under the lease in certain specified circumstances.

It is agreed as follows:

1 **Definitions**

1.1 In this Agreement, unless the context requires otherwise:

"**Additional Obligor**" means an Eligible Person who assumes, jointly and severally with the Company, the Company's rights and obligations under the Lease Documents pursuant to Clause 4;

"**Affiliate**" means, in relation to any person, any person who directly or indirectly owns or controls, or is owned or controlled by, such person;

"**Default Notice**" means a notice given by the Finance Provider to the Landlord which refers to this Agreement and states that an Event of Default or an Enforcement has occurred, which notice may (but need not) be given by the Finance Provider, at its sole discretion, on or at any time after the occurrence of an Event of Default or an Enforcement;

"**Eligible Person**" means:

(a) (save where used in Clause 7):

(i) the Finance Provider, provided it holds such authorisations as are required to be held by it under any laws in force from time to time in Great Britain (or any part of it) in order for it lawfully to act as such;

(ii) any Affiliate of the Finance Provider or any receiver, receiver and manager or administrator appointed by the Finance Provider over all or substantially all the assets of the Company,

provided in each case it holds such authorisations as are required to be held by it under any laws in force from time to time in Great Britain (or any part of it) in order for it lawfully to act as such trustee, receiver, receiver and manager or administrator (as the case may be); or

(iii) any other person approved by the Landlord (such approval not to be unreasonably withheld or delayed); and

(b) (where used in Clause 7) a person approved by the Landlord (such approval not to be unreasonably withheld or delayed) as:

(iv) having the legal capacity, power and authority to become a party to and perform the obligations of the Company under the Lease Documents; and

(v) having (either directly or through sub-contracts) such qualifications, experience, technical competence and resources as are sufficient to enable it to perform the obligations of the Company under the Lease Documents;

"**Enforcement**" has the meaning given in Clause 5.2;

"**Event of Default**" means any event the happening of which, subject only to the giving of notice to the Company, would cause the indebtedness owed by the Company to the Finance Provider to become due and payable;

"**Finance Agreement**" means the agreement between the Company and the Finance Provider dated on or around the date of this Agreement as the same may be amended, supplemented or replaced from time to time;

"**Insolvency**" includes, without limitation, liquidation, winding-up, administration, bankruptcy, receivership, the making of any voluntary arrangement with creditor on or any class of creditors, the making of any voluntary arrangement with creditors or any class of creditors, the making or sanctioning of any scheme of arrangement, any inability to pay debts within the meaning of any statutory provision, the value of a person's assets being less than the amount of its liabilities, any event or proceedings preparatory to or related in any way to any of the foregoing and any event or proceeding in any jurisdiction outside the jurisdiction of this Agreement which has an effect equivalent or similar to any of the foregoing;

"**Lease Documents**" means the lease between the Company and the Landlord dated on or around the date of this Agreement as varied by any subsequent documentation;

"**Relevant Period**" means a period of 90 days (or such longer period as the Landlord may agree with the Finance Provider) starting on the first to occur of (a) the date on which the Landlord gives notice to the Finance Provider pursuant to Clause 3 and (b) the date on which the Finance Provider gives a Default Notice to the Landlord;

"**Standard Security**" means the security granted by the Company in favour of the Finance Provider over the Company's interest in the Lease Documents;

"**Step-in Date**" means the date on which the Company's rights and obligations under the Lease Documents are assumed, jointly and severally with the Company, by an Eligible Person pursuant to Clause 4 and "Step-in" shall be construed accordingly;

"**Step-in Period**" means the period from the Step-in Date up to and including the first to occur of:

(a) the Step-out Date;

(b) the Transfer Date as defined in Clause 7; and

(c) the date of termination of the Lease Documents in accordance with Clause 5.1; and

"**Step-out Date**" means the date immediately following the date of expiry of the notice period referred to in Clause 6.

1.2 Save to the extent that the context or the express provisions of this Agreement otherwise require:

1.2.1 headings and sub-headings are for ease of reference only and shall not be taken into consideration in the interpretation or construction of this Agreement;

1.2.2 all references to Clauses are references to Clauses of this Agreement;

1.2.3 the Recitals to this Agreement are an integral part of this Agreement and reference to this Agreement includes reference thereto;

1.2.4 all references to agreements, documents or other instruments include (subject to all relevant approvals) a reference to that agreement, document or instrument as amended, supplemented, substituted, novated or assigned;

1.2.5 references to "parties" mean the parties to this Agreement and references to a "party" mean one of the parties to this Agreement and includes in each case their respective successors, transferees and assigns;

1.2.6 all monetary amounts are expressed in pounds sterling;

1.2.7 any reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument (including EU instrument) as amended, replaced, consolidated or re-enacted; and

1.2.8 a person who is not a party to this Agreement shall have no right to enforce any of its terms.

2 Security Interest

2.1 The Landlord hereby acknowledges notice of, and consents to, the security interest granted over the Company's rights under the Lease Documents effected by the Company in favour of the Finance Provider pursuant to the Standard Security.

2.2 The Landlord confirms that it has not received notice of any other standard security or security interest granted over the Lease Documents or the Company's rights under it.

3 Notice of Termination

3.1 If the Landlord intends to take any steps to terminate any Lease Document it shall give written notice to the Finance Provider of such intention, and the grounds for taking such steps. The Landlord shall not take any steps to terminate any Lease Document prior to the expiry of the Relevant Period.

3.2 The Landlord shall, at the same time as it gives any notice under Clause 3.1 (and, if requested by the Finance Provider in circumstances where any Enforcement or Event of Default has occurred or, in the opinion of the Finance Provider, is likely to occur, as soon as practicable after such request) deliver a statement to the Finance Provider identifying (i) any amount owed by the Company to the Landlord under or in respect of the Lease Documents (the amounts properly so owed and identified in such statement being the "Notified Arrears") (ii) any other liabilities or obligations of the Company under the Lease Documents which are

overdue for performance and (iii) any outstanding breach by the Company of its obligations under the Lease Documents.

4 **Step-in**

The Finance Provider may, at any time during the Relevant Period provide a copy of an undertaking given by an Eligible Person to the Landlord (which, subject to the provisions of Clause 6, shall be irrevocable) whereby an Eligible Person assumes, jointly and severally with the Company, the Company's rights and obligations under the Lease Documents, whether accrued before or after delivery of such undertaking.

5 **Step-in Period**

5.1 If there is a Step-in, then, during the Step-in Period, the Landlord shall not exercise any right which it has to terminate the Lease Documents (or take any proceedings or other steps for or with a view to the Insolvency of the Company), save where such right is exercised by reference to a breach of any Lease Document which occurs on or after the Step-in Date. During the Step-in Period, the Additional Obligor and not the Company shall deal with the Landlord in relation to all matters concerning the Lease Documents and performance of any obligation under the Lease Documents by the Landlord in favour of the Additional Obligor shall be a good discharge by the Landlord of such obligation to the Company.

5.2 Notwithstanding the provisions of Clause 5.1, the Landlord shall not exercise any right which it may have to terminate any Lease Document during the Step-in Period by reason of the occurrence (including during the Step-in Period) of the Insolvency of the Company. In addition, the Landlord shall not exercise any right which it may have to terminate any Lease Document solely by reason of any event arising (whether or not during a Step-in Period) as a direct consequence of the enforcement of any security interest over the Company's interest in any Lease Document (an "Enforcement") or the exercise of any of the powers conferred by law or by the document creating the relevant security interest in relation to such Enforcement (unless the Landlord has already given notice in accordance with Clause 3 and there has not been a Step-in pursuant to Clause 4 or a transfer pursuant to Clause 7, in each case before the end of the Relevant Period).

6 **Step-out**

Without prejudice to the Landlord's and the Company's rights and obligations under the Lease Documents, the Additional Obligor shall, on 14 days prior written notice from the Finance Provider to the Landlord, be released from any obligations to the Landlord arising under or in connection with the Lease Documents and this Agreement (save that the Additional Obligor will remain jointly and severally liable with the Company in respect of the Notified Arrears, unless already paid, and any amounts which have become due for payment to the Landlord thereunder during the Step-in Period) and the rights of the Additional Obligor against the Landlord shall be cancelled.

7 **Transfer of Company's interest in the Lease Documents**

7.1 At any time during the Relevant Period or the Step-in Period, the Finance Provider may, on 30 days' prior written notice to the Landlord, procure the transfer of the Company's rights and obligations under the Lease Documents to an Eligible Person and the Landlord hereby consents to any such transfer. The Finance Provider may not (whether in the context of any Enforcement or otherwise) procure the transfer of Company's rights and obligations under the Lease Documents to any person who is not an Eligible Person.

7.2 On the date on which any transfer pursuant to Clause 7.1 becomes effective (the "Transfer Date"), the Finance Provider and any Additional Obligor shall be released from any obligations arising under or in connection with the Lease Documents and this Agreement, the Eligible Person shall be granted all of the rights and assume all of the obligations and liabilities of the Company under the Lease Documents (whether actual or contingent and whether arising before, on or after the Transfer Date) and the Landlord shall enter into

another agreement *mutatis mutandis* in the form of this Agreement with the person who acts as security trustee under the financing arrangements of the Eligible Person to whom the transfer is made.

7.3 After the Transfer Date, the Landlord shall only be entitled to exercise any right which it may have to terminate the Lease Documents in respect of:

7.3.1 any breach which occurs on or after the Transfer Date; or

7.3.2 any breach which occurred before the Transfer Date and which is capable of remedy, but has not been remedied within such period as is reasonable in all the circumstances and commencing seven days (or such other reasonable period as the Landlord may, acting reasonably, agree) after the Transfer Date.

7.4 After the Transfer, the Eligible Person to whom the Transfer is made shall be entitled to assign or sublet the Lease Documents with the prior consent of the Landlord, such consent not be unreasonably withheld or delayed.

8 **Further Direct Agreements**

The Landlord shall, from time to time after being requested to do so by the Finance Provider, enter into an agreement *mutatis mutandis* in the form of this Agreement, if and to the extent such agreement is required in substitution for this Agreement for the purposes of any refinancing or further financing of the renewable energy equipment or in the context of the appointment of a successor Finance Provider in accordance with the Finance Agreement. In addition, the Landlord shall ensure that any person who becomes a successor to the Landlord in respect of any of the Landlord's obligations under any Lease Document shall enter into such an agreement at the time such person becomes successor in title.

9 **Duration**

This Agreement shall remain in full force and effect until the date on which all sums payable by the Company to the Finance Provider have been irrevocably paid and discharged in full on which date this Agreement shall terminate (without prejudice to any accrued rights and obligations under this Agreement as at such date).

10 **Supremacy of this Agreement**

If there is any conflict or inconsistency between the provisions of:

10.1 this Agreement; and

10.2 the Lease Documents,

then this Agreement shall prevail.

11 **Miscellaneous**

11.1 Procedure in relation to Eligible Persons

For the purpose of facilitating a Step-in pursuant to Clause 4 or a transfer pursuant to Clause 7, the Finance Provider may give notice to the Landlord proposing that a person named in the notice be treated as an Eligible Person for the purposes of sub-paragraph (a) (iii) and/or subparagraph (b) of the definition of Eligible Person in Clause 1. The Landlord shall not unreasonably withhold its approval of a person named in such notice as an Eligible Person (and, for the purposes of sub-paragraph (b) of the definition of Eligible Person, may only withhold its approval on the grounds that the person does not meet the criteria set out in sub- paragraphs (b)(i) and (b) (ii) of that definition). The Landlord shall, within 15 days

after receipt of such notice give notice to the Finance Provider stating either (a) that it approves the person as an Eligible Person or (b) that it does not approve the person as an Eligible Person and its reasons for not approving the person as an Eligible Person. Any failure by the Landlord to approve a person as an Eligible Person shall be without prejudice to the right of the Finance Provider to serve one or more further notices under this Clause in relation to other persons. If, within 30 days following approval by the Landlord of a person as an Eligible Person, there has not been a Step-in by that Eligible Person pursuant to Clause 4 or (as the case may be) there has not been a transfer to that Eligible Person pursuant to Clause 7, the approval of such person as a Eligible Person shall lapse and be null and void, but this shall be without prejudice to the right of the Finance Provider to serve one or more further notices under this Clause in relation to that person or any other person.

11.2 Notices

11.2.1 Any communication in connection with this Agreement shall be in writing and, unless otherwise stated, may be given in person, by post, email, fax or any form of electronic communication approved by the Finance Provider.

11.2.2 For the purpose of this Agreement, an email, fax or electronic communication will be treated as being in writing.

11.2.3 Unless it is agreed to the contrary, any consent or agreement required under this Agreement shall be given in writing.

Any notice or other communication to be given by one party to another party under, or in connection with the matters contemplated by, this Agreement shall be sent as follows:

11.2.4 all notices in connection with this Agreement for the Landlord: Scroggie Farm, The Mount, Uplands, IV15 9TT, for the attention of John McKenzie.

11.2.5 all notices in connection with this Agreement for the Company: Glenwyvis Distillery, Scroggie Farm, Dingwall, IV15 9UF, for the attention of Hazel Allen.

11.2.6 all notices in connection with this Agreement for the Finance Provider: Orbital House, 3 Redwood Crescent, East Kilbride, Glasgow, G74 5PA, for the attention of James Waterson.

11.2.7 Where the Finance Provider nominates a particular department or officer to receive a notice, a notice will not be effective if it fails to specify that department or officer.

11.2.8 Any Party may change its contact details by giving five business days notice to the other Party.

11.3 Notice Effectiveness

11.3.1 Except as provided below, any notice in connection with this Agreement will be deemed to be given as follows:

11.3.1.1 if delivered in person, at the time of delivery;

11.3.1.2 if posted, five days after being deposited in the post, postage prepaid, in a correctly addressed envelope; and

11.3.1.3 if properly addressed and sent or supplied by fax, email or electronic communication, one hour after the document or information was sent or supplied.

11.3.2 A communication given under Sub-Clause 11.3.1 above but received on a day other than a business day or after business hours in the place of receipt will only be deemed to be given on the next business day in that place.

11.4 Role of Company

The Company is a party to this Agreement solely for the purpose of acknowledging and consenting to the arrangements which are set out in it and agrees not to do or fail to do anything which might impede the enforcement by any other party of its rights under this Agreement. This Agreement shall not confer any rights on the Company against the Landlord or the Finance Provider and only the Landlord and the Finance Provider may exercise or enforce any rights or obligations under this Agreement whether against each other or the Company.

11.5 The Landlord's Rights Unaffected

Save as expressly provided in this Agreement nothing in this Agreement or in any other agreement between any of the parties shall limit or affect in any way the rights of the Landlord under the Lease Documents. This Agreement shall not confer any right on the Landlord to terminate the Lease Documents which would not have existed had this Agreement not been entered into.

11.6 No Waiver

No failure by a party to exercise, nor any delay by a party in exercising any right or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies provided for in this Agreement are cumulative and not exclusive of any other rights remedies.

11.7 Invalidity

If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

11.8 Further Assurances

The Landlord shall take whatever lawful action the Finance Provider may reasonably require for implementing or perfecting any transfer or release under any of the provisions of this Agreement. The Company shall bear all costs and expenses reasonably and properly associated with the taking of any action pursuant to this Clause.

11.9 Rent Review

The Landlord undertakes not to conduct any rent review under the Lease Documents until the expiry or termination of this Agreement.

11.10 Costs

The Company shall meet the proper and reasonable legal and other professional fees and expenses incurred by the Landlord (acting reasonably) in connection with the negotiation and conclusion of this Agreement.

12 **Law and Jurisdiction**

12.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by and will be construed in accordance with the law of Scotland.

12.2 The parties irrevocably submit to the exclusive jurisdiction of the Courts of Scotland to settle any dispute or claim that arises out of or in connection with this Agreement, its subject matter or formation (including non-contractual disputes or claims).

IN WITNESS WHEREOF these presents consisting of this and the 7 preceding pages are executed as follows:

Subscribed by John McKenzie

at GLENWYVIS HOUSE, DINGWALL, IV15 9UF

on 4/10/17

before

X _____ Witness

JOSH FRASER Full Name

64 BRAES OF CONON Address

CONON BRIDGE IV7 8AX

Subscribed for and on behalf of Glenwyvis Distillery Limited

by

X _____ *Authorised Signatory/Director/Company Secretary

DAVID O'CONNOR Full Name (Please Print)

at GLENWYVIS HOUSE, DINGWALL, IV15 9UF

on 4/10/17

before

X _____ Witness

CRAIG MACRITCHIE Full Name (Please Print)

1 OLD MILL LANE, Address

KILTARLITY, IV4 7GN

*Please delete as applicable

Subscribed for and on behalf of Close Brothers Limited

by

_____ *Authorised Signatory/Director/Company Secretary

DAVID O'CONNOR Full Name (Please Print)

at GLENWYVIS, DINGWALL, IV15 9UF

on 4/10/17

before

Craig MacRitchie — Witness

CRAIG MACRITCHIE — Full Name (Please Print)

1 OLD MILL LANE, — Address

KILTARLITY, IV4 7GN

*Please delete as applicable