Harper Macleod LLP

Lease

Between

John McKenzie

And

Glenwyvis Distillery Limited

Subjects of Lease: Distillery Site at Glenwyvis, Dingwall

Important Notice

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- Signature of this Document will have legal consequences;
- All parties other than Glenwyvis Distillery Limited should take independent legal advice prior to signature of this Document.

Ref: CMACL/435740

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Lease

between

1 **John McKenzie** of Scroggie Farm, The Mount, Uplands, IV15 9TT, and of Flat 2F1, 6 Deanhaugh St, Edinburgh, EH4 1LY (in this Lease called the "**Landlord**", which expression shall wherever the context so admits include all persons deriving title from them); and

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 ((in this Lease called the "**Tenant**", which expression shall, wherever the context so requires or admits, include their permitted successors and assignees in substitution therefor.

It is contracted and agreed between the Landlord and the Tenant as follows:

1 **Definitions and Interpretation**

In this Lease:

1.1 The following expressions shall have the following meanings, unless the context otherwise requires:

"Access Road" means the access road running from the publicly maintained highway (through the Landlord's Property) to the Leased Subjects and shown shaded grey on the Plan (but to the extent the grey colouring is outwith the Property but within the Landlord's Property);

"**Base rate**" means the base lending rate of The Royal Bank of Scotland PLC from time to time in force, provided that, in the event that such rate is no longer prescribed or set by The Royal Bank of Scotland PLC then any reference to Base Rate shall have effect as if there had been substituted from time to time the most closely comparable rate of interest;

"Building" means the building or buildings to be constructed on the Property or part thereof pursuant to the Works, as the same may be amended or altered from time to time, and any replacement being constructed from time to time all in compliance with the provisions of this Lease;

"Consents" means building warrants and all other statutory consents, permissions or approvals as are required to enable the Works to be commenced and completed;

"**Contaminants**" means any flammable, combustible, explosive, infectious, corrosive, caustic, irritant, strong, sensitising, carcinogenic or radioactive material, hazardous waste, toxic substance, petroleum or petroleum derived substance or any pollutant, material, substance or waste regulated by or conceived as harmful under any Environmental Laws;

"**Date of Entry**" means 1 February 2017;

"Date of Practical Completion" means the date of issue of a practical completion certificate duly given by the appropriate certifying professional in terms of the Tenant's building contract confirming that the Works have been practically completed;

"Distillers House Subjects" means the area extending to 0.086 hectares or thereby and shown coloured light blue on the Plan;

"**Energy Performance Certificate**" means an energy performance certificate in terms of the Energy Performance Certification Legislation;

"**Energy Performance Certification Legislation**" means any legislation relative to energy performance certification and/or inspection and/or advice to users of air conditioning systems, in any of these cases relative to buildings in Scotland, including (without limitation) the Energy Performance of Buildings (Scotland) Regulations 2008 and the Building (Scotland) Act 2003 and regulations and orders made thereunder;

"Force Majeure" means exceptionally adverse weather conditions, civil commotion, strike or lock-out affecting any of the trades directly and necessarily engaged in the execution of the Works, the exercise of any statutory power which directly affects the execution of the Works, any delays attributable to a Relevant Event (as the same is defined in the Tenant's building contract) and which have been certified as entitling the contractor to an extension of time under the Tenant's building contract, or any other delay beyond the reasonable control of the Tenant but declaring the Tenant shall be deemed to be in control of its funders and all arrangements relative to the Tenant's finances and/or the funding of the Works;

"Landlord's Property" means ALL and WHOLE, the subjects known as Scroggie Farm, at Upper Docharty, Dingwall, registered in the Land Register of Scotland under Title Number ROS7442 and indicatively shown outlined in green on the Plan;

"**Lease**" means this Lease;

"**Lower Subjects**" means the area extending to 0.156 hectares or thereby and shown coloured purple on the Plan

"**Parties**" means the Landlord and Tenant or, in substitution therefor, their respective successors or permitted assignees in respect of their interests in this Lease;

"Plan" means the plan showing the Leased Subjects which is annexed and executed as relative hereto:

"**Property**" means (ONE) from the Date of Entry until the Date of Practical Completion ALL and WHOLE the site at Glenwyvis, Dingwall comprising (i) the area extending to 0.636 hectares or thereby shown outlined by a blue broken line and hatched in blue on the Plan (ii) the area extending to 0.158 hectares or thereby and shown coloured green on the Plan (iii) the Distillers House Subjects; and (iv) the Lower Subjects and all forming part and portion of the Landlord's Property and (TWO) from the Date of Practical Completion onwards ALL and WHOLE the site at Glenwyvis, Dingwall comprising (i) the area extending to 0.321 hectares or thereby and shown coloured pink and hatched in blue on the Plan and (ii) the area extending to 0.158 hectares or thereby and shown coloured green on the Plan (iii) the Distillers House Subjects; and (iv) the Lower Subjects and all forming part and portion of the Landlord's Property;

"**Quarter Day**" means 28 February, May, August and November in each year;

"**Schedule**" means the Schedule annexed and executed as relative to this Lease, which Schedule is incorporated into, and forms part of, this Lease;

"Subjects of Lease" means the Property together with the Building and others to be erected thereon from time to time;

"**VAT**" means Value Added Tax or other similar tax from time to time replacing or performing a similar fiscal function, at the rate ruling at the tax point of the supply giving rise to liability to account for the tax;

"**Working Day**" means Mondays to Fridays (inclusive) except Scottish national and local holidays as applied in Inverness from time to time.

1.2 References to statutes or statutory provisions shall be construed as references to those statutes or provisions as amended, extended, consolidated or replaced from time to time and shall include any orders, regulations, instruments or subordinate legislation under or deriving from the relevant statute or statutory provision.

1.3 The masculine gender shall include the feminine and neuter genders, the singular number shall include the plural and vice versa and references to persons shall include bodies corporate, unincorporated associations and partnerships.

1.4 Where from time to time there are two or more persons included in the expression the "Tenant", obligations contained in this Lease which are expressed to be made by the Tenant shall be binding jointly and severally on them and their executors and representatives whomsoever without the necessity of discussing them in their order; in the case where the Tenant is a firm or partnership the obligations of the Tenant hereunder shall be binding jointly and severally on all persons who are or become partners of the firm at any time during the period of this Lease and their executors and representatives whomsoever as well as on the firm and its whole stock, funds, assets and estate without the necessity of discussing them in their order and such obligations shall subsist and remain in full force and effect notwithstanding any change or changes which may take place in the firm or partnership whether in the name of the firm or partnership or by the assumption of a new partner or partners or by the retiral, bankruptcy or death of any individual partner provided that the Landlord will not unreasonably withhold consent to the release of a retiring partner or the trustee in bankruptcy or the estate of a deceased partner from liability under this Lease if the Landlord is satisfied, acting reasonably, that the covenant of the remaining partners remains at a level not substantially less than it was prior to such retiral or bankruptcy or death.

1.5 References to Clauses are to Clauses of this Lease.

1.6 Headings to the Clauses and to parts or sections of the Schedule are inserted for convenience only and shall not affect the construction of this Lease.

1.7 Any obligation upon the Landlord or the Tenant not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done by any person under its or their respective control; and further, in relation to the Tenant, shall include an obligation not to allow that thing to be done or omitted to be done by any subtenant or occupier of the Subjects of Lease.

1.8 Any phrase prefaced by the words "including", "include", "in particular" or any similar expression or wording, shall not be construed as limiting the generality of any preceding phrase or word.

1.9 Any entry on the Subjects of Lease by the Landlord or by any person authorised under this Lease by the Landlord to enter, shall be at reasonable times and upon reasonable notice (or no notice in cases of emergency) and subject to the proviso that the Landlord shall make good all physical damage caused to the Subjects of Lease in the exercise of such right, but shall not be responsible for any loss of trade or other consequential loss resulting or alleged to result from such entry.

1.10 Any right of entry onto the Subjects of Lease reserved to the Landlord under this Lease includes the right to bring contractors and appropriate equipment and machinery onto the Subjects of Lease.

2 Grant of Lease and Description of Subjects of Lease

In consideration of the payment of the rent by the Tenant to the Landlord and the performance by the Tenant of its obligations in this Lease the Landlord lets to the Tenant but excluding assignees and sub-tenants except as expressly permitted in terms of this Lease, the Subjects of Lease, together with the rights specified in Part 1 of the Schedule, but excepting and reserving to the Landlord and all others from time to time authorised by the

Landlord or otherwise entitled thereto, the whole rights, reservations, servitudes and others specified in Part 2 of the Schedule.

3 **Duration**

The duration of this Lease shall be the period of 175 years from and after the Date of Entry.

4 **Rent**

4.1 The Tenant shall be obliged to pay to the Landlord rent of ONE POUND (£1) STERLING per annum, if asked only.

5 **Tenant's Obligations**

The Tenant shall be obliged to observe and perform throughout the period of this Lease the whole conditions, obligations and others specified or referred to in this Lease, including without prejudice to that generality, the Development Obligations set out in Part 3 of the Schedule and the Tenant's Occupational Obligations set out in Part4 of the Schedule.

6 **Warrandice**

The Landlord, subject to the reservations, conditions and others contained or referred to in this Lease, warrants this Lease to the Tenant, at all hands and against all mortals.

7 **No Warranty**

Nothing contained in this Lease shall be deemed to constitute any warranty by the Landlord that the Subjects of Lease, the Building or any part of it is authorised for use under the applicable Town and Country Planning Acts for any specific purpose, or as to the suitability or fitness of the Subjects of Lease for any purpose.

8 **No Liability for Repair, Maintenance or Renewal**

The Tenant accepts that, as between the Landlord and the Tenant, the Landlord shall not be obliged to carry out, and shall have no responsibility or liability in respect of, any works required to maintain, repair, renew or rebuild the Subjects of Lease, and that regardless of the age or state of dilapidation of the Subjects of Lease and irrespective of the cause of any damage to the Subjects of Lease.

9 **Indemnity**

The Tenant shall free relieve and indemnify the Landlord in respect of any third party claims made against the Landlord, any loss suffered by the Landlord and all proceedings, costs, expenses and demands of whatsoever nature in respect of any such claims or losses, in any of these cases which are made against, or suffered by, the Landlord in its capacity as heritable proprietor of the Subjects of Lease, except for (a) such as arise by virtue of actions by the Landlord or those instructed by the Landlord or those for whom the Landlord is responsible at law, which are not actions permitted to be taken, in terms of this Lease, by the Landlord and (b) any relating to tax due by the Landlord.

10 **Irritancy**

10.1 In this Clause 10 "**Material Breach**" shall mean a material breach of Clauses 6 and 7 of Part 4 of the Schedule;

10.2 If a Material Breach has occurred then the Landlord shall be entitled to serve notice (hereinafter called the "**Irritancy Warning Notice**") on the Tenant (which Irritancy Warning Notice the Landlord shall be bound to copy to every creditor in any existing Standard

Security, Floating Charge or Debenture granted by the Tenant over the Subjects of Lease or any part or parts thereof, ("a Notifiable Party") to the extent that notice of the interests of such creditors had been served on the Landlord prior to the date of service of the Irritancy Warning Notice), specifying the Material Breach, requiring the same to be remedied within such reasonable period of time as the Landlord shall prescribe in the Irritancy Warning Notice and stating that failing which timeous remedy the Landlord may irritate this Lease.

10.3 the Tenants may by notice in writing to the Landlord within 30 Business Days of the written notice by the Landlord (in terms of Clause 10.2 above) deny that a Material Breach has occurred and, if the Tenants serve such notice, the question of whether or not a Material Breach has occurred shall be immediately referred to the decision of the arbitrator in accordance with Clause17 hereof;

10.4 If by the date 30 Business Days after service of notice by the Landlord in terms of Clause 10.3 above the Tenants have not served notice in terms of Clause 10.3 above denying that a Material Breach has occurred, or if such expert determines or the Landlord and the Tenants otherwise agree in writing that a Material Breach has occurred, then a Material Breach will have occurred.

10.5 Without prejudice to the other provisions of this Clause 10, if a Material Breach has occurred in accordance with Clause10.2 the Landlord shall immediately give notice in writing to the Tenants and to every Notifiable Party (a "First Stage Termination Notice") referring specifically to this Clause and the notice served by the Landlord in terms of Clause10.2 above and specifying the nature of the Material Breach and requiring the same to be remedied within such reasonable time as the Landlord shall prescribe which in the case of any monetary payment shall be a period of 20 Business Days only;

10.6 Without prejudice to the other provisions of this Clause 10, if the Landlord serves a First Stage Termination Notice on the Tenants (and each Notifiable Party pursuant to Clause10.2 above in respect of any monetary payment then (notwithstanding that such payment has not been received by the Landlord) the Landlord shall not have any right to seek the forfeiture or irritancy of this Lease unless it serves a further notice in writing (a "Final Stage Termination Notice") on the Tenants and on each Notifiable Party attaching and referring to such First Stage Termination Notice, stating that the monetary Material Breach referred to therein remains unremedied after expiry of the period of 20 Business Days referred to in the First Stage Termination Notice and stating that the Lease is at an end;

10.7 Only in the event that the Tenants or any Notifiable Party fails to remedy the Material Breach within the time specified in the notice(s) served by the Landlord in terms of Clause 10.2 above (and in the case of monetary breach, also in terms of Clause10.3 above) shall there be the potential for forfeiture or irritancy to be incurred and such forfeiture or irritancy shall not be incurred or shall be held to have been incurred on the grounds of failure to remedy the Material Breach until final Decree of Declarator of Irritancy has been granted and any such potential forfeiture or irritancy may be purged by payment or performance by the Tenants or any such creditor before such final Decree of Declarator of Irritancy is issued.

10.8 If:-

10.8.1 the Tenant (being a corporation) shall go into liquidation (whether compulsory or voluntary), or have a receiver or administrator appointed to the whole or any part of the property of the Tenant ; or

10.8.2 the Tenant or any of them enter into a composition for the benefit of Creditors or shall make any arrangement with their Creditors; or

10.8.3 the Tenant become insolvent or have a curator or judicial factor appointed

then and in any of these events, it shall be in the power of the Landlord to bring this Lease to an end at the expiry of 6 months' notice to the Tenant to that effect ("**an irritancy notice**")

but without prejudice to any right of action or remedy by the Landlord to recover all arrears of rent or other sums due by the Tenant to the Landlord in terms of this Lease or in respect of any antecedent breach by the Tenant of their obligations hereunder and to enforce all obligations of the Tenant hereunder enforceable after termination of this lease and which irritancy is hereby declared to be pactional and not penal and shall not be purgeable at the bar;

10.9 The Landlord shall not exercise such option of irritancy in Clause 10.8 above, unless and until they shall have allowed the Liquidator, Receiver, Administrator or Creditor (as the case may be) a period of 12 months in which to dispose of the Tenant's interest under this Lease and only then if the Liquidator, Receiver, Administrator or Creditor (as the case may be) shall accept personal responsibility in self-proving writing (or provide such other security as may be acceptable to the Landlord) within 28 days of the appointment of the Liquidator, Receiver or Administrator, as the case may be, for payment of the rent and for performance of, and duly discharges, all the Tenant's obligations under this Lease whether due in respect of the period occurring before or after the date of liquidation or appointment of a Receiver or Administrator (as the case may be) to the expiry of said period of 12 months as aforesaid or, if earlier, the date of entry under such disposal; and it is hereby declared that the Landlord shall deal with any request for consent to assign this Lease made by the Liquidator, Receiver, Administrator or Creditor (as the case may be) in the same manner as if the request had been made by the Tenant.

10.10 In the event that a Liquidator, Receiver, Administrator or Creditor (as the case may be) may be seeking to dispose this Lease under Clause 10.9 hereof, they shall give the Landlord the first option to purchase the Lease, the Works and the business of the Tenant. The Landlord shall have a period of 28 days in which to confirm whether they wish to exercise their option to purchase. If the Landlord wishes to exercise then the price to be paid shall be the open market value of the Lease, the Works and the business of the Tenant which failing agreement shall be determined by an independent surveyor appointed jointly by the Liquidator, Receiver, Administrator or Creditor (as the case may be) and the Landlord or in the absence of agreement to be appointed on the application of either party by the Chairman for the time being of the Scottish Branch of the Royal Institution of Chartered Surveyors. Once a price has been determined by the said surveyor the Landlord shall have a period of 21 days in which to confirm whether he wishes to proceed at the said price, failing which the Liquidator, Receiver, Administrator or Creditor (as the case may be) are entitled to sell the same on the open market.

11 **Lease to Continue**

This Lease shall continue in full force and effect notwithstanding damage to or destruction of the Subjects of Lease or any part thereof by any cause.

12 **No Waiver**

The demand for and/or acceptance by the Landlord or their agents of any monies due by the Tenant to the Landlord in terms of this Lease shall not constitute, and shall not be construed to mean, a waiver of any of the obligations on the part of the Tenant in terms of this Lease or of the Landlord's remedies for the non-performance or non-observance of such obligations.

13 **Removal and No Compensation at Expiry**

13.1 Save as specifically provided in this Lease, the Landlord shall have no ownership interest in any Building, the Works or any other equipment constructed and installed by the Tenant on the Property, all of which items shall at all times throughout the duration of this Lease remain the property of the Tenant.

13.2 On or before the date 9 months prior to the expiry of this Lease the Landlord shall notify the Tenant in writing whether they wish to exercise their option to purchase the Buildings, the Works and other equipment belong to the tenant. In the event that the Landlord does wish to purchase the same, then the parties shall agree a price on or before the date 7 months prior

to the expiry of this Lease to give notice to the Tenant and advise whether they wish to take over the Works in which case, on the date of termination of this Lease, the Tenant shall leave the Works in situ, and make over the Buildings to the Landlord.

13.3 In the event that the parties have not agreed a price by the date 7 months prior to the expiry of the Lease, the matter shall be referred to an arbitrator under Clause who shall determine the said price. The arbitrator shall make their determination by such a date to give the Landlord at least 21 days in which to consider whether they wish to pay such a price in terms of Clause 13.4. The Landlord must give notice to the Tenant they wish to proceed to exercise their option to purchase at the price determined by the date 3 months prior to the expiry of this Lease, and such notice shall be deemed to be a binding commitment by the Landlord.

13.4 In the event that the Landlord does not give notice, or the Landlord has not confirmed that they are happy to pay the price pursuant to Clause 13.3 by the date 3 months prior to the expiry of this Lease then the Tenant shall be obliged to remove and the provisions of Clause 13.5 shall apply.

13.5 If the Tenant is to remove the Works under Clause 13.4 or otherwise, the Tenant is obliged, at the Tenant's whole cost:-

13.5.1 remove the Works and the Buildings;

13.5.2 reinstate the above ground subjects, to as close to their original condition as it is practicable to do so;

13.5.3 (PROVIDED always that in relation to Clause 13.5 all works of removing and reinstating must be to the standard required by the planning and other competent authorities so as to comply with the terms of all planning and other relevant consents for any works of removal, reinstatement or restoration and making good all damage caused to land adjoining) and that all to the satisfaction of the Landlord (acting reasonably) and the planning and other competent authorities and with all restoration works to be completed within a period of 3 months from the date of expiry or earlier termination of this Lease.

13.6 For the avoidance of doubt, in the event that the Lease is otherwise terminated early for any reason then the provisions of 13.5 shall apply.

13.7 Except where any Act of Parliament prohibits or modifies the right to compensation being excluded or reduced by agreement, the Tenant shall not be entitled, on quitting the Subjects of Lease, to claim any compensation from the Landlord.

14 Landlord's Obligations

14.1 The Landlord shall act reasonably in agreeing any planning agreement any Section 75 or similar statutory agreement as may be reasonably required by the planning authority or any other competent authority subject to the Tenant indemnifying the Landlord in respect of any costs in respect of the same.

14.2 The Landlord shall make good any damage caused in the exercise of the reserved rights in Part 2 of the Schedule.

14.3 The Landlord shall not erect any buildings, or structure nor plant trees within 100m of the Property, without the prior consent of the Tenant not to be unreasonably withheld.

15 Injurious Affection

15.1 In the event that a wayleave or servitude is granted or to be granted in favour of the District Network Operator or other third party either through the Property or on the Landlord's Property, then:-

15.1.1 The Tenant will be consulted at an early stage and may consult its members for their position, and the Landlord shall pay due regard to the Tenant's views.

15.1.2 The Landlord and the Tenant shall both share in the compensation payable by District Network Operator (or such other party that the wayleave or servitude is granted in favour of)(whether or not the wayleave, servitude or other grant is through the Property or the Landlord's Property) either by way of injurious affection or otherwise.

15.2 In calculating the compensation to be paid by the District Network Operator (or such other party that the wayleave or servitude is granted in favour of) due regard shall be given to the effect the erection of any powerline or other infrastructure pursuant to the wayleave, servitude or other grant shall have on the business of the Tenant and the business of the Landlord (as the case may be).

16 **Interest**

The Tenant shall pay, on demand, to the Landlord interest, at the rate of four per centum per annum above the Base Rate, on all monies due by the Tenant to the Landlord under or by virtue of this Lease if the same shall not be paid on the due date, which due date shall (save to any extent specified to the contrary in any particular provision of this Lease) be the date which is 10 Working Days after the date of the Tenant's receipt of a written demand therefor. Such interest shall (save to any extent specified to the contrary in any particular provision of this Lease) run from the due date of payment during the non-payment of the relevant monies.

17 **Unenforceable Provisions**

If any provision of this Lease is held to be invalid or unenforceable for any reason, then the remaining provisions of this Lease shall, to the extent that they are not held to be invalid, remain in full force and effect; and if any provision of this Lease is held to be void and unenforceable but would, if some part thereof was deleted or amended, be valid and enforceable, then such provision shall apply with such deletion or amendment as may be necessary to make it valid and enforceable.

18 **Notices**

18.1 Unless otherwise agreed in writing by the Parties for any particular purposes, any notice, request, consent or approval under this Lease shall be in writing and shall be served either by letter or by facsimile transmission.

18.2 Any notice to the Tenant shall be sufficiently served if sent by Recorded Delivery Post, if the Tenant shall be a body incorporated in the United Kingdom, to its Registered Office, or if the Tenant shall be a person, to his last known address in the United Kingdom, or if the Tenant shall be a firm, to the firm and any one or more of the partners thereof at their last known address in the United Kingdom and, in any other case, to the Tenant at the Subjects of Lease.

18.3 Any notice to the Landlord, if a body incorporated in the United Kingdom, shall be sufficiently served if sent by Recorded Delivery Post to its Head or Registered Office and, in any other case shall be sufficiently served if sent by Recorded Delivery Post to the Landlord at its last known principal address in the United Kingdom.

18.4 Any notice sent by Recorded Delivery Post shall be deemed to have been duly served at the expiry of one Working Day after the day of posting and any notice so given by facsimile

transmission shall be deemed to have been served Twenty four hours after it shall have been despatched (or on the next Working Day, if later). Without prejudice to the foregoing, if a notice shall be given by facsimile transmission, it shall also be sent by Recorded Delivery Post. In proving service, it shall be sufficient to prove that the envelope containing the notice was duly addressed to the Tenant or the Landlord (as the case may be) in accordance with this clause and posted to the place to which it was so addressed.

19 **Dispute Resolution**

Unless the Lease provides to the contrary, any dispute or disagreement between the parties arising from the terms of the Lease, shall be referred to the decision of a sole arbitrator in accordance with the Arbitration (Scotland) Act 2010 under declaration that (i) the juridical seat of the arbitration is Scotland, and (ii) Rule 41 and Rule 69 of the Scottish Arbitration Rules contained in Schedule 1 of the Arbitration (Scotland) Act 2010 shall not apply.

20 **Minute of Variation / Reduction of Leased Subjects**

20.1 As soon as reasonably practicable after the Date of Practical Completion the Tenant shall prepare an amended version of the Plan ("Amended Plan") showing the as built final location of the Building, the Works, and any other tenant's equipment, infrastructure and the Access Roads, and a reduced curtilage of the Property to reflect the extent the Property that the Tenant reasonably requires. The Amended Plan shall be sent to the Landlord for the Landlord's approval (not to be unreasonably withheld or delayed). As soon as reasonably practicable thereafter the Tenant shall prepare a Minute of Variation of Lease (in terms of which Plan is replaced by the Amended Plan) which shall be passed to the Landlord for execution. The Landlord shall execute the Minute of Variation and return it to the Tenant within 15 Working Days of receipt of the said engrossment, together with the relevant particulars of execution. The Tenant will execute the Minute of Variation and a certified true copy will be sent to the Landlord within 15 Working Days of the date of delivery of the said engrossment to the Tenant as aforesaid.

20.2 For the avoidance of doubt and without prejudice to Clause 20.1 the parties shall agree a reduced curtilage for the Lower Subjects, once the as built location for the Building, the Works and other tenant's infrastructure is known and finalised, and shall prepare and execute a Minute of Variation in terms of Clause 20.1 to reflect the as built position.

20.3 In the event that the planning consent is not obtained on the Distillers House Subjects by the 2nd anniversary of the Date of Entry, then the parties shall agree and sign a partial renunciation of the Lease in respect of the Distillers House Subjects only as soon as possible following the 2nd anniversary of the Date of Entry.

21 **Time of the Essence**

Time shall be of the essence with respect to any timescales referred to in this Lease, except to any extent that express provision is made to the contrary.

22 **Further Assurance**

The Parties shall, so far as it lies within their power to do so, do such acts and things and execute such deeds and documents as may be necessary to give full effect to the provisions of this Lease.

23 **Entire Agreement**

23.1 This Lease set out the entire agreement between the Parties relative to the lease of the Subjects of Lease to the Tenant and neither Party entered into this Lease in reliance upon any representation, warranty or undertaking of any other party which is not set out in or referred to in this Lease.

23.2 No variation of this Lease shall be valid unless it is in writing and executed by the Parties in a self proving manner.

24 **Waiver of Rights**

No waiver by either of the Parties of any of the requirements of, or of that Party's rights under, this Lease shall have effect unless given in writing executed by or on behalf of the relevant Party in a self proving manner.

25 **Lands Tribunal Applications**

No application shall be made, in respect of any of the provisions of this Lease, to the Lands Tribunal for Scotland under S90(1)(a)(i) of the Title Conditions (Scotland) Act 2003, at any time before the date occurring 5 years after the Date of Entry.

26 **Scots Law to Apply, Prorogation of Jurisdiction**

This Lease shall be construed in accordance with the Law of Scotland and the Parties, in so far as not subject to the jurisdiction of the Scottish Courts, prorogate the jurisdiction of the Scottish courts in relation to any matter arising in relation to this Lease.

27 **Registration Dues**

The Tenant shall, on demand, reimburse to the Landlord the costs of registering the Lease in the Books of Council and Session and of obtaining three Extracts of the Lease (one for the Tenant).

28 **Consent to Registration**

The Parties consent to registration of this Lease for preservation and execution as well as for publication: IN WITNESS WHEREOF these presents consisting of this and the preceding 9 pages, together with the Schedule and the Plan annexed

Subscribed by John Mckenzie

14 NOV 2016

JOHN ANGUS MCKENZIE

at GlenWyvis, Upper Docharty, Dingwall, IV15 9UF

on 14/11/16

before

Witness

JOSH DAVID FRASER — Full Name (Please Print)

64 BRAES OF CONON — Address

CONON BRIDGE, IV7 8AX

*Please delete as applicable

Subscribed for and on behalf of Glenwyvis Distillery Limited

by

David O'Connor — *~~Authorised Signatory~~/Director/~~Company Secretary~~

DAVID O'CONNOR — Full Name (Please Print)

at GlenWyvis, Upper Docharty, Dingwall, IV15 9UF

on 14/11/16

before

Josh Fraser — Witness

JOSH DAVID FRASER — Full Name (Please Print)

64 BRAES OF CONON — Address

CONON BRIDGE, IV7 8AX

*Please delete as applicable

This is the Schedule referred to in the foregoing Lease between John McKenzie and Glenwyvis Distillery Limited

Schedule
Part 1
Rights Granted to Tenant

1. A non-exclusive right of access for pedestrian and vehicular access including heavy vehicles over and across the Access Road, together with rights to repair, maintain, improve, realign or reinforce such the road and widen the same to such width as the Tenant may reasonably require including a bellmouth and such passing places, turning circles, bridges, culverts, embankments, cuttings, side drains and others as may reasonably be required.

2. A non-exclusive right to take a supply of water (including the right to sink boreholes) from within the Landlord's Property and to construct and, maintain such pipes, tanks, connections and others as are required to lead water within the Landlord's Property to the Subjects of Lease with access thereto for the purposes of maintaining, inspecting and, when necessary, renewing

3. A non-exclusive right to connect (together with rights to lay such cables and associated infrastructure) into the existing 3-phase electricity sub-station, and take a supply of electricity from the Landlord's renewable energy generators on the Landlord's Property which electricity may be taken at no charge to the Tenant.

4. A non-exclusive right to lay such pipes, cables and associated apparatus under the Landlord's Property required to enable to the Tenant to connect to the Leased Subjects to the mains supply of electricity, connect to telephone and other normal services (including mains water and drainage) with access thereto for the purposes of laying, maintaining, inspecting and, when necessary, renewing and upgrading the same.

Subject always to the obligation to make good such physical damage to the Landlord's Property occasioned by the exercise of the rights.

Part 2
Rights Reserved to Landlord and persons authorised by Landlord

1 The Landlord shall be entitled to require the Tenant, at all convenient times during the subsistence of this Lease to permit all prospective purchasers of the Landlord's interest in the Subjects of Lease, authorised in writing by the Landlord or its agents, by prior arrangement with the Tenant and at reasonable times, to view the Subjects of Lease during normal business hours, but always so as to cause minimum practicable interference with the business of any person carried on from any part of the Subjects of Lease.

2 The Landlord and its surveyors or agents shall be entitled to enter upon the Subjects of Lease at reasonable times on not less than 10 Working Days prior written notice to the Tenant, to inspect the Subjects of Lease; to assess whether the Tenant is complying with its obligations in terms of this Lease or for any other reasonable purpose; and

3 The right to use, maintain, repair and replace existing cables and pipes (including those in respect of the Landlord's renewable energy generators) installed prior to the Date of Entry within the Subjects of Lease including all necessary rights of access thereto.

4 A non-exclusive right to work and quarry for stones and minerals, at the location shown coloured green on the Plan forming part of the Property, but strictly subject to payment to the Tenant for such damage as may thereby be occasioned to the surface or building on the Subjects of Lease as the same shall be ascertained, failing agreement, by an arbitrator to be mutually chosen by the parties and failing agreement chosen by the President of the Law Society of Scotland for the time being or his nominee on the application of any party

Part 3

Development Obligations

1. **Tenant to complete Works**

The Tenant shall at its sole cost design, carry out and complete the Works in a good and workmanlike manner with all due diligence and all practicable speed and with good quality materials in accordance with the Consents, all current building regulations and statutory provisions and the requirements of this Lease.

2. **Obligations in relation to the Works**

In the performance of its obligations under Clause 1 the Tenant shall:-

2.1 pay and satisfy all fees, charges and other payments which are due and payable to any competent authority or public service company in respect of the Works;

2.2 comply with all requirements and regulations of any Act of Parliament or bye-law or any local authority or public service company or authority which has jurisdiction with regard to completing the Works and obtain the necessary statutory and other permissions, approvals, consents, licences and others for the carrying out of the Works;

2.3 subject to delays caused by Force Majeure ensure that the Works are carried out in a regular and efficient manner.

2.4 as soon as reasonably practicable produce to the Landlord all working drawings, specifications and plans in connection with the Works as the Landlord may reasonably require in writing;

4.1 permit the Landlord to make representations and pay due regard to any proper and reasonable written representations or requirements of the Landlord, in so far as requisite to ensure compliance with the obligations of the Tenant in terms of this Lease;

4.2 not to specify or use in the Works any materials which are known to be deleterious or not in conformity with British Standards and Codes of Practice at the time of specification;

4.3 after the Date of Practical Completion (or sooner if appropriate) diligently to make good the defects that are required to be made good under the building contract for the Works;

4.4 procure that all construction traffic relative to the Works enters and/or leaves the Property by the Access Road; and

4.5 before commencing the Works so far as relative to the provision or the connection of services, the Tenant shall meet with the landlord to discuss and obtain approval (which shall not be unreasonably withheld or delayed) regarding the connections to be made into existing or common services to serve the Subjects of Lease.

3. **Deemed performance of the Tenant's obligations**

The obligations undertaken by the Tenant under Clauses 1 and 2 shall be deemed to have been duly performed if they are performed on its behalf by the Tenant's contractor or professional advisors and the obligations undertaken by the Landlord shall be deemed to have been duly performed if they are performed on its behalf by the Landlord's surveyor.

4. **Insurance of Works**

4.1 The Tenant shall procure that the Subjects of Lease together with the Works from time to time are insured with an established insurance company of good repute in the UK:

(a) from the date of commencement of the Works until the Date of Practical Completion, in accordance with the requirements of the Tenant's building contract against loss or damage by fire and against such other risks required to be insured against under the Tenant's building contract; and

(b) from the Date of Entry and for the duration of this Lease in respect of third party and public liability in each case for not less than £5,000,000.

4.2 Whenever reasonably required the Tenant shall produce to the Landlord evidence that the appropriate insurance continues to be in force.

4.3 If insurance is not effected or maintained in accordance with this Clause 5 the Landlord may effect the same and pay the premiums and the cost shall be repaid to the Landlord by the Tenant on demand.

4.4 If the Works or any part of them are destroyed or damaged by fire or any other risk insured against at any time before the Date of Practical Completion then as often this may happen the Tenant shall use all sums recovered under any insurance policy towards carrying out and completing the Works and/or rebuilding, repairing or otherwise reinstating all damage to the Works in a good and workmanlike and substantial manner in accordance with the provisions of this Lease.

4.5 Neither the Landlord nor the Tenant shall knowingly permit or suffer to be done any act or thing which would vitiate any policy or policies of insurance effected pursuant to this lease.

5. **Access**

5.1 During the period of the Works and up to the Date of Practical Completion the Tenant shall be responsible for the whole cost of the maintenance and repair of the Access Road.

5.2 The Tenant shall ensure that at the Date of Practical Completion the Access Road is in no worse condition than it was at the Date of Entry.

6. **Tenant to obtain notice of acceptance of completion certificate**

The Tenant shall obtain and exhibit to the Landlord as soon as practicable after the Date of Practical Completion a notice of acceptance of the completion certificate by the Verifier and a copy of the original completion certificate in respect of the Works.

Part 4
Tenant's Occupational Obligations

1 **Outgoings**

The Tenant shall pay and discharge all rates, taxes, duties, levies, charges, assessments, impositions and outgoings whatsoever, whether parliamentary, regional, district, parochial, local or of any other description which are now or may at any time hereafter be taxed, assessed, charged or imposed upon or payable in respect of the Subjects of Lease or on any part thereof or on the owner or occupier in respect thereof except for taxes on the Landlord in respect of any income or gains to the Landlord in relation to the Landlord's dealings with the Subjects of Lease.

2 **Compliance with Statute**

2.1 The Tenant shall comply with all obligations (whether relating to the Subjects of Lease, the uses permitted in terms of this Lease or otherwise) imposed by any Act or Acts of Parliament (including, without prejudice to the foregoing generality, the Factories Act 1961, the Offices Shops and Railway Premises Act 1963, the Fire (Scotland) Act 2005, the Health and Safety at Work Act 1974, the Town and Country Planning Acts, the Construction (Design and Management) Regulations 2007, and the Environmental Laws, all as amended from time to time), statutory instruments or the rules, bye-laws, regulations, notices and orders of any local or other authority for the time being in force and shall do and execute or cause to be done and executed all such works, acts, deeds, matters and things as under or by virtue of any such Act or Acts, statutory instruments, rules, bye-laws, regulations, notices or orders are or shall be properly directed or necessary to be done or executed upon or in respect of the Subjects of Lease or any part thereof whether by the owner, landlord, tenant or occupier and at all times to keep the Landlord indemnified against all claims, demands and liability in respect thereof.

2.2 Without prejudice to Clause 2.1 of this Part of the Schedule, in relation to fire safety compliance the Tenant shall comply with its obligations under the Fire (Scotland) Act 2005, as the same may be amended or re-enacted from time to time, and any orders thereunder, including without limitation the Fire Safety (Scotland) Regulations 2006 (all hereinafter called the "**Fire Safety Legislation**").

2.3 Without prejudice to Clause 2.1 of this Part of the Schedule, the Tenant shall, within21 days of the Date of Practical Completion obtain an Energy Performance Certificate for the Building.

3 **Insurance**

3.1 The Tenant shall, with effect from and after the Date of Practical Completion, maintain in place with a reputable insurance company in the joint names of the Tenant, the Landlord and any additional party which may be required by the Tenant, insurance against third party and property owners' liability in respect of any injury to, or the death of, any person, damage to any property, heritable or movable, by reason of or arising out of the condition or state of repair of or use of the Subjects of Lease, for such a sum as may reasonably be considered by the Tenant or reasonably requested by the Landlord to be necessary or prudent and shall make all payments necessary to maintain such insurance in force.

3.2 The Tenant shall produce to the Landlord from time to time when reasonably required copies of the policy effecting such insurance and documentary evidence that such policy remains in force.

3.3 From and after the Date of Practical Completion the Tenant shall insure the Building under a policy of insurance effected with a reputable insurer on the UK insurance market in the name of the Tenant and/or such other parties as the Tenant shall require and the Building in each

case shall be insured against the risk of fire and such other risks as the Tenant may require for the full reinstatement value thereof.

4 **Obstructions or Encroachments**

Except with the prior consent of the Landlord (not to be unreasonably withheld or delayed), the Tenant shall not knowingly permit any new wayleave, encroachment or servitude to be made into or acquired against or over the Subjects of Lease or any part thereof and in case any wayleave encroachment or servitude shall be attempted to be made or acquired by any person or persons whomsoever to give notice thereof in writing to the Landlord as soon as practicable after the same shall come to the notice of the Tenant and the Tenant shall, at its own cost, do all such things as may be reasonably required for preventing any new encroachment or servitude being made or acquired.

5 **Title Conditions**

5.1 This Lease is granted subject to and with the benefit of, and the Tenant shall be bound to observe and perform, the obligations, burdens, conditions and others contained or referred to in the title deeds and other documents affecting the Subjects of Lease.

5.2 The Tenant agrees that, should the Tenant wish to exercise any right which it may have to enforce any title condition or real burden to which the Subjects of Lease is subject against a third party, then (a) the Tenant will not do so without first obtaining the consent of the Landlord, which consent will not be unreasonably withheld or a decision thereon unreasonably delayed and may be granted subject to such reasonable conditions as the Landlord may impose, and (b) the Tenant will pursue any such enforcement at its own cost.

6 **Assignation and Sub-Letting**

The Tenant shall not be entitled to assign or sub-let in whole or in part except with the prior consent of the Landlord. Notwithstanding the foregoing the Tenant shall be entitled to charge the Lease to a funder of the Tenant's. The Landlord's consent to a proposed assignation or sub-let shall not be unreasonably withheld or delayed where the proposed assignee or sub-tenant has agreed to vary the monetary obligations in the Lease and pay a market rent for the Property.

7 **User**

7.1 The Subjects of Lease shall be used principally for a whisky distilling, production and distribution business, office and private tours facility including bonded warehouses, other ancillary buildings, and all ancillary purposes thereto.

7.2 The Tenant may work and quarry for stones and mineral, at the location of shown coloured green on the Plan forming part of the Property.

7.3 Notwithstanding the foregoing, and subject to obtaining all necessary approvals for the same including planning consent, the Tenant has the option of developing a small visitor centre on the Property. This will be subject to prior agreement being reached with the Landlord on suitable access arrangements (both parties acting reasonably).

8 **Expenses**

8.1 The Tenant shall, within fourteen days of demand, free and relieve the Landlord of all Surveyors' and Solicitors' fees and other professional charges and expenses properly and reasonably incurred by the Landlord in connection with (a) any application to the Landlord for consent or approval in terms of this Lease (whether granted or not, unless such consent or approval is adjudged by a Court to have been unreasonably withheld) or in consequence thereof, and (b) except to the extent that any Court determining any matter shall have determined that the same shall not be payable by the Tenant, the enforcement or protection

of any of the rights of the Landlord under this Lease to the extent that the Tenant is in breach of its obligations in terms of this Lease.

8.2 The Tenant shall be responsible for any Land and Business Transaction Tax which arises in respect of the grant of the Lease.

9 **VAT**

9.1 The Tenant shall pay to the Landlord (a) all VAT comprising output tax chargeable by the Landlord on supplies by the Landlord, or by anyone on behalf of the Landlord, to the Tenant in terms of this Lease and (b) an amount or amounts equal to all VAT comprising input tax incurred by the Landlord or any other party in respect of expenditure or other sums or consideration to be reimbursed to the Landlord by the Tenant in terms of this Lease, in each case as applicable in respect of the rent, and any other charges, expenses, outlays or sums or consideration (all in this paragraph called the "Monies") payable by, or reimbursable by, the Tenant to the Landlord under this Lease (whether or not such VAT is chargeable in consequence of the exercise of any option to tax in terms of Schedule 10 of the VAT Act 1994) and in every case where in this Lease the Tenant undertakes to pay any Monies such amount shall be regarded as being exclusive of all VAT which may from time to time be legally chargeable thereon which VAT shall be payable by the Tenant in addition to, and at the like times as, such Monies and for the purposes of this Lease shall be treated as if it were part of such Monies; provided that where the relevant VAT is input VAT incurred by the Landlord, the Tenant shall not be obliged to pay it to the extent that the Landlord obtains a credit for it from Customs and Excise as allowable input VAT.

10 **Members of the Tenant's Company**

10.1 Only the members of the Board of Directors of the Tenant, employees of the Tenant, or those specifically authorised by the Tenant's board in connection with the purposes of construction, for carrying out specific works or carrying out duties in connection with the Tenant's business, are entitled to access the Property and exercise rights under the Lease. In the event that investors or ordinary members of the Tenant's company, or members of the public wish to access the Property in connection with their investment reward, then the Landlord shall not unreasonably withhold or delay his consent to allowing such an investor to access the Property provided they are on a supervised tour.

11 **Electricity and other Services**

11.1 The Tenant shall contribute 50% of the costs of maintaining the electricity (including the renewable energy generators) and other services which are jointly used with the Landlord up until the 1 August 2030. Any major or high costs (where the costs are in excess of £10,000 in total) in particular in respect of the renewable energy generators are to be agreed between the parties first (both acting reasonably) in order to assess whether such repairs represents value for money for both parties. After 1 August 2030, the use of the Landlord's existing renewable energy generators shall be subject to a separate arrangement to be agreed between the parties, declaring that the Tenant is not obliged to enter into such an arrangement with the Landlord.

11.2 The use of electricity from the Landlord's existing renewable energy generators shall be subject to the Tenant ensuring there is a sufficient allowance of 5,000 Kwh per annum for the Landlord's own purposes. Where electricity needs to be imported (for example where the renewable energy generators are not in working order), then the Tenant shall pay for the costs of such imported electricity. As soon as possible after the Date of Entry and annually thereafter and electricity import reading is to be taken to enable the parties to agree a start point for import (if applicable).

11.3 In the event the Tenant requires further electricity beyond the electricity generated on the Landlord's Property, then they are obliged to connect to mains electricity and they shall be entitled to lay such cables and associated apparatus on the Landlord's Property and exercise

rights of access to the Landlord's Property for the of laying, maintaining, inspecting and, when necessary, renewing and upgrading the same.

12 **Access**

12.1 From and after the Date of Practical Completion, the Tenant shall be jointly liable along with the Landlord for a half share of the costs of maintaining and repairing the Access Road. (except for those parts of the Access Road that are used exclusively by the Tenant, which parts shall be the sole responsibility of the Tenant).

12.2 The Tenant is solely responsible for winter road clearing in respect of the Access Road, but shall be granted full access to Landlord's farm quad, gritter and snow plough. The Tenant must provide salt/grit for the use on road-existing salt bins are in place. Use of any such vehicle provided by the Landlord cannot be guaranteed and is at the Tenant's own risk, with the Tenant being responsible for ensuring that the driver of any such vehicle is suitably trained. The Landlord may make available farm plant or other vehicles to the Tenant or any builder appointed by the Tenant on such terms which will be agreed in advance between the parties (both acting reasonably).

13 **Draff and Pot Ale**

13.1 The Landlord shall be entitled (but not obliged) to use for the Landlord's own purposes the draff and pot ale produced by the Tenant's distillery for no charge.

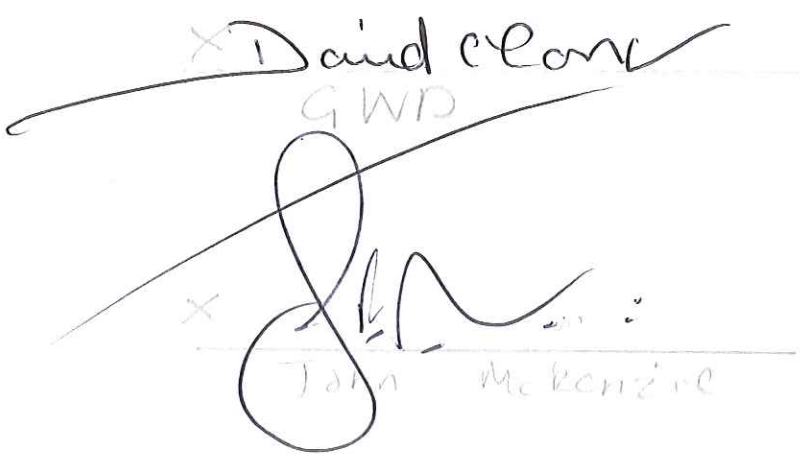
14 **Constitution and Board Meetings**

14.1 The Tenant shall comply with the rules constitution of the Tenant at all times.

14.2 The Tenant shall ensure that the Landlord in their capacity as landowner of the Property is invited to attend all Board Meetings of the Tenant.

15 **Glen Wyvis House**

15.1 The Tenant is entitled to use at no further charge the residential property belonging to the Landlord known as GlenWyvis house until 31st July 2017, after which, in the event the Tenant wishes to use the same, then charges will apply on a commercial basis.



This is the Plan referred to in the foregoing Lease between John Mackenzie and Glenmyre Dingwall Limited

Bore Hole

0.321 ha

0.158 ha

0.636 ha

0.086 ha

0.156 ha

Property Boundary

Lease Area

- Scroggie Farm Lease 1
- Scroggie Farm Lease 2
- Scroggie Farm Lease 3
- Scroggie Farm Lease 4
- Scroggie Farm Construction
- New Access (4m width)
- Water Mains
- Undefined

Scroggie Farm, Dingwall, IV15 9UF

1:2,500

0 10 20 40 60

Metres

N

Easting: 253,432
Northing: 860,990

Highland Geomatics

All boundaries aligned with OS features except where shown as 'undefined'
Contours at 10m intervals

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Highland Geomatics, part of Natural Resource Services Group 12/09/2016

14/11/16

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