



**Crown Estate  
Scotland**

Oighreachd a' Chrùin Alba

File Number: RC2-74-9

LEASE

between

**CROWN ESTATE SCOTLAND**, (in Gaelic, Oighreachd a' Chrùin Alba) established as a body corporate in terms of the Crown Estate Scotland Order 2017 previously carrying on business under the name of "Crown Estate Scotland (Interim Management)", (in Gaelic, Oighreachd a' Chrùin Alba (Stiùireadh Eadar-amail)) and renamed in terms of the Scottish Crown Estate Act 2019, on behalf of Her Majesty the Queen, having its principal office at 6 Bells Brae, Edinburgh, EH4 3BJ

OF THE FIRST PART

and

[ ] incorporated under the Companies Acts in Scotland (Registered Number ) and having its registered office at [ ] (who and whose successors and permitted assignees in the right of occupancy of the Lease after defined are hereafter referred to as "the Tenant" )

OF THE SECOND PART

The Parties have agreed and do hereby agree as follows:-

Definitions and Interpretation

1. In this deed the following expressions have the meanings as follows: -

**"Ancillaries"** - such works, facilities or equipment as have been approved in writing by the Landlord, for installation on or over or adjacent to the Subjects or part thereof, being ancillary and in addition to the Equipment (the Ancillaries (if any) at the Date of Entry being as described in Part 2(b) of the Schedule.)

**"Change of Control"** – a change in the direct or indirect legal or beneficial ownership of the Tenant.

**"Date of Entry"** –

**“Duration”** - the period of 25 years from and including the Date of Entry.

**“Equipment”** - the primary equipment, approved in writing by the Landlord for anchoring to the Subjects in or on which the Species are to be reared or cultivated or stocked, (the Equipment at the Date of Entry being as described in Part 2(a) of the Schedule).

**“Lease”** - this Lease and any variation to the terms of this Lease.

**“Management Agreement”** - any agreement, the terms of which can be seen to be reasonable, either between or with other fish farm operators who have fish farming operations in the vicinity of the Subjects which is intended to assist in the co-ordination of husbandry to sustain the production capacity of the sea in the said vicinity and the efficiency of the operators.

**“Rent”** – the total of (a) the Species Rent as calculated in accordance with Part A of Part 1 of the Schedule and (b) the Other Fish Rent as calculated in accordance with Part B of Part 1 of the Schedule.

**“Rent Assessment Year”** - as defined in Part 1 of the Schedule.

**“Schedule”** - the Schedule comprising five parts annexed and executed as relative hereto.

**“Schedule of Co-ordinates”** – the schedule of co-ordinates comprising part 5 of the Schedule.

**“Site”** - each or any of the fish farm sites comprised or included in the Subjects and “Site” and “Sites” shall be interpreted accordingly.

**“Special Conditions”** - the further conditions (if any) of this Lease as set out in Part 3 of the Schedule.

**“Species”** - salmon and fish of the salmon kind.

**“Subjects”** - as defined in Part 2(a) of the Schedule together “Total Production” - means the weight in kilograms of the Species as farmed by the Tenant on the Subjects,

- (a) sold during the Rent Assessment Year by the Tenant as the Tenant's own,

- (b) not being the Tenant's own, sold by the Tenant during the Rent Assessment Year on behalf of a third party or delivered during the Rent Assessment Year to, or to any nominee of, a third party, or
- (c) lost, (including loss from death) damaged or destroyed (including damage from or destruction because of or necessitated by disease) during the Rent Assessment Year (and whether or not being the Tenant's own) as a consequence of the acts or omissions of any third party or parties but only when compensation in respect of such consequential loss, damage or destruction is or becomes recoverable by the Tenant or by the owner of the Species from any such third party or parties and irrespective of the fact that such compensation for loss, howsoever occasioned, sustained may not be received by the Tenant in the Rent Assessment Year, (and whether or not the Tenant or owner is able to sell any fish damaged or destroyed at less than normal market price);

Provided that the "weight" in this definition means the natural gutted fish weight of the Species subject only to any blood loss.

Declaring that: -

- (1) sales or deliveries of the Species as mentioned at (a) and (b) above are sales or deliveries thereof in a normal marketable condition (and not in a damaged diseased or other less than normal marketable condition), whether fully grown, or of plate size or of another partly grown size specially produced for the market whether alive or dead, and
- (2) any estimation or calculation of weight for the purposes of assessing the Total Production will be carried out fairly and reasonably and, if appropriate, in accordance with any formula for or method of estimating or calculating agreed between the parties,

or, failing such agreement, as determined by an arbiter appointed in terms of Clause 10 hereof.

In these presents the clause and sub-clause headings do not form part of the Lease and will not be taken into account in the construction or interpretation of it and words importing the singular include the plural and vice versa and words importing one gender include all other genders and where there are two or more persons included in the expression "the Tenant" the obligations therein or herein expressed or implied to be made by the Tenant are made by such persons jointly and severally and 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 during the Duration or before any early termination of the Lease and on their respective 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 whether by the assumption of a new partner or partners or by the retirement, bankruptcy or death of any individual partner.

#### Lease

2. The Landlord in consideration of the Rent which the Tenant shall pay on each Rent Payment Date and other obligations hereinafter specified and subject as declared in Clause 5 and sub-Clause 7.17 hereof and subject otherwise as provided in terms of the Lease hereby lets the Subjects to the Tenant for the Duration but subject to an option to the Tenant to terminate the Lease with effect on 31 December in any year provided that at least 6 months' prior written notice has been given to the Landlord of the exercise of this option; declaring that (a) with effect from the Date of Entry (notwithstanding the dates hereof) the Tenant hereby renounces (insofar as not already renounced) its whole right and interest in and to the lease or leases (if any) specified in Part 4 of the Schedule which renunciation the Landlord hereby accepts but that without prejudice to the

Tenant's whole obligations to the Landlord thereunder insofar as such obligations remain unimplemented and (b) the Landlord warrants this Lease from fact and deed only.

### Purpose

3. The Subjects in so far as delineated and coloured pink on the Plan marked "Fish Farm Plan" annexed and signed as relative hereto and the location of which is set out in the Schedule of Co-ordinates are let for or in connection only with a fish farm or farms for the rearing and cultivation of the Species while using the Equipment, and the Ancillaries (if any), and for no other purpose.

### Reservations

4. There is excepted and reserved (a) to Her Majesty and Her Successors the whole mines, metals, minerals and fossils of every description (other than coal vested in the Coal Authority) including stone, shale, ironstone, limestone, clay, marl, gravel, sand, oil and its relative hydrocarbons and all other gases and substances in or under the Subjects in so far as belonging to Her Majesty and Her Foresaids, with full power and liberty to Her Majesty and Her Foresaids and to any person authorised by Her or Them to do everything necessary to search for, work, win, raise, calcine, manufacture and carry away and dispose of the same by any method the said mines and others and to do everything necessary for all or any of these purposes, subject to compensation being made to the Tenant for all loss or damage which the Tenant suffers as a result of the exercise of the said power and the amount of such compensation shall, failing agreement, be ascertained by reference to a single arbitrator appointed in terms of clause 10 hereof; (b) full and free right for Her Majesty and Her Foresaids and for all persons authorised by Her or Her Foresaids and for all members of the public to exercise all rights to which they may be entitled and all privileges which they may enjoy from and over the Subjects including without prejudice to the foregoing generality such rights of navigation and fishing as exist, and (c) all wayleaves and servitudes affecting the Subjects, with power to alter the same or grant further wayleaves and servitudes.

### Resumption

5. The Landlord may at any time after the expiry of 3 months' written notice of their intention to do so resume possession of any part or parts or of the whole of the Subjects for any purpose which in the opinion of the Landlord is of sufficient importance to justify such resumption, and which may without prejudice to that generality, include (One) meeting the statutory requirements of any statutory body or Harbour Authority; and (Two) the provision and enhancement or extension of any structures, navigational aids, defence requirements, navigation routes and others, but in no case for the purpose of letting for cultivation of the Species. Subject as hereinafter provided compensation will be made to the Tenant for all loss which the Tenant suffers as a result of such resumption and the amount of such compensation shall, failing agreement between the Landlord and the Tenant or at the option of either of them after the lapse of 1 month following such resumption, be ascertained by reference to a single arbitrator who, failing agreement between the Landlord and the Tenant within 1 month as to who should be appointed, shall be appointed in accordance with clause 10 hereof but provided that such compensation (a) will not exceed the amount of any compensation which the Landlord receives under statute or otherwise as a consequence of being obliged under statute or in law to resume possession as aforesaid and (b) will be ascertained while taking account of the fact that any appropriate reduction in rent consequent upon such resumption has been or will be determined as hereinafter declared.

### Rent

6. The Tenant will pay the Rent to the Landlord (if required by such form of direct bank transfer as the Landlord may from time to time specify in writing) on each Rent Payment Date in the amounts stated or calculated as provided, and also subject to review as provided, in Part 1 of the Schedule within 28 days of demand and will do so free from all deductions with interest thereon at 3% above the Royal Bank of Scotland plc Base Rate as such rate may vary from time to time from the due date or dates until payment is

made or, at the option of the Landlord or on any cessation of said Base Rate, at the rates prescribed by Treasury Regulations from time to time under the Land Compensation Acts or under any statutory re-enactments or amendments thereof or substitution therefor or at the rates prescribed under any future statute which in the opinion of the Landlord shall apply;

### Tenant's Obligations

7. The Tenant hereby undertakes: -

#### Assignment and Sub-Letting

- 7.1.1 not to assign the Lease in part nor to grant fixed securities over, sub-let or otherwise part with or share possession or occupation of part only of the Subjects;
- 7.1.2 not to assign the Lease of the Subjects as a whole without first obtaining the written consent of the Landlord which consent shall not be unreasonably withheld in the case of a substantial and respectable assignee who is of sound financial standing and is in the reasonable opinion of the Landlord able to perform the Tenant's obligations under the Lease, but which consent, if granted, may be subject to such conditions as the Landlord may impose including the condition that the Landlord may require a guarantee or guarantees in respect of the obligations incumbent upon the Tenant hereunder and in considering any application for consent to assign the Landlord will be entitled to have regard to the Assignee's interest in or intent to enter into a Management Agreement with other parties having an interest in any fish farm in reasonable proximity to the Subjects;
- 7.1.3 not to sub-let the whole or any part of the Subjects
- 7.1.4 nor to permit occupancy of the Subjects on any basis by any party other than the Tenant, without first obtaining the prior written consent of the Landlord.

7.1.5 not to grant fixed securities over the lease of the Subjects as a whole or part without first obtaining the written consent of the Landlord, which consent shall not be unreasonably withheld or delayed.

7.1.6 not to enter a Change of Control without the prior written consent of the Landlord (such consent not to be unreasonably withheld or delayed) provided that such consent may be given with conditions attached.

#### Accounting for Production

7.2 to keep fair comprehensive and clearly and properly detailed books of accounts throughout each Year as defined in Part 1 of the Schedule with correct entries, not only of all income, expenditure, assets and liabilities relative to the fish farm for which the Subjects are used, but also of the volume of stocks (including stock losses as mentioned in sub-Clause 7.6.2 hereof) and showing the Total Production of the Species sold off and delivered from said fish farm and (a) at all times when so required on reasonable notice to produce such books of account to the Landlord and to permit them or their agents or any person nominated by them to take extracts therefrom and to give any explanation that may reasonably be required in relation to said books and the entries therein and (b) to deliver to the Landlord a copy of the Tenant's annual (or other periodical) accounts of or relative to or including the accounts of the said fish farm, either in such form or forms as the Tenant is required by statute or otherwise (whether publicly or privately) by law to have them prepared or produced (and in any event in a fair and proper form appropriate to the Tenant's business) or, if the Tenant is under no such requirement, in said fair and proper form and in either case within 30 days of certification thereof by the Tenant's auditor following any audit or auditor's verification or, if the Tenant is under no obligation in law to have such accounts audited or independently verified, then within 6 months of the end of any Year as

defined in Part 1 of the Schedule and to give to the Landlord any explanation that may be reasonably required in relation to such accounts.

### Production Returns

7.3 to deliver to the Landlord at 6 Bell's Brae, Edinburgh, EH4 3BJ (or such other address as the Landlord from time to time notify) on or before the 31<sup>st</sup> day of January first occurring after the Date of Entry and on the 31<sup>st</sup> day of January in each succeeding Year and at such other time or times as the Landlord shall by notice in writing reasonably require a true and fair account in writing in such form as the Landlord may from time to time direct containing full particulars of the Total Production of the Species and the total production of Other Fish (as defined in Part 1 of the Schedule) (calculated on the same basis as the Total Production but substituting for the word "Species" the words "Other Fish") (including inter alia particulars of all relevant loss damage or destruction so that the Total Production may be calculated and also a record of stock input and output figures for each Year Class or Generation of fish on each and every Site) for the Year (or part Year during the first year of this Lease) ending on the immediately preceding 31<sup>st</sup> day of December such particulars being from time to time if required by the Landlord verified in the Landlord's option by either a statutory declaration by the Tenant or by a certificate granted by the Tenant's auditor in such form as shall be satisfactory to the Landlord; declaring that, in their discretion and upon the Landlord stating in writing to the Tenant the reason for so doing, which in all circumstances shall be reasonable, the Landlord may seek also to verify such particulars, independently of or supplemental to such declaration or certificate, with or through the Tenant's customers and others who have taken delivery of such production by requesting (directly or indirectly through the Landlord's agents or nominees or through the Tenant's auditor) from them relevant information about the value and/or volume of such delivery and that the Tenant hereby

agrees that the Landlord may arrange to have such requests made and, subject as hereinafter provided, agrees to use all reasonable endeavours to ensure that such requests are fully met, and in no case to refuse consent to or in any way to discourage the meeting of such request; provided that the strength and extent (if any) of the Tenant's obligation to use all reasonable endeavours as aforesaid in any particular case will depend on the nature of the personal, business and legal relationships between the Tenant and the particular customer or other so that (by way of examples only and without prejudice to the foregoing generality) the Tenant would be expected to use all such endeavours if the particular customer or other is a subsidiary company or otherwise owned or controlled by the Tenant but might not be expected to use such endeavours to the same extent if the particular customer is a third party at arm's length from the Tenant;

#### Pay Taxes etc

7.4 to pay all present and future rates, taxes and assessments and outgoings whatsoever payable in respect of the Subjects, by whatever party or authority leviable and whether related to the landlord's interest or the Tenant's interest herein.

#### VAT

7.5.1 to pay to the Landlord such amount of Value Added Tax at the rate for the time being in force as shall be legally payable in respect of all monies undertaken to be paid by the Tenant under the Lease and in every case in the Lease where the Tenant undertakes to pay an amount of money such amount shall be regarded as being exclusive of all Value Added Tax which may from time to time be legally payable thereon.

7.5.2 not to use or permit to be used the Subjects for any use or act or fail to act in any manner or do or fail to do or permit to be done anything which has the effect that a supply of the Subjects by the Landlord to the Tenant is not a taxable supply

notwithstanding that the Landlord may have made an election to waive exemption from Value Added Tax and to indemnify and keep indemnified the Landlord from and against any failure or inability on the part of the Landlord to recover input Value Added Tax and against all other claims, costs, demands, expenses, proceedings, actions, value added tax liabilities, other liabilities and losses (whether arising before or after the Date of Entry) of whatever nature but only insofar as any of the foregoing arise in any way directly or indirectly out of a breach or breaches of this provision.

#### Cultivation Method and Reports on Losses

- 7.6.1 to carry out all operations in accordance with the best and most up to date method of marine farming and to use best endeavours to keep the stock in good health and free of disease at all times.
- 7.6.2 to report to the Landlord in writing, within 1 month of the event, any stock losses being either a single event as a result of which 25% or more, or at any time when the aggregate of 25% or more of a single generation of the Species is lost, such report to include the quantity, cause or causes, the nature of which could include natural and other disasters (including any form of third party negligence) as well as predators, theft, disease or algal or other blooms.

#### Special Conditions

- 7.7 to implement and observe the conditions (if any) specified in Part 3 of the Schedule.

#### Environmental Care

- 7.8 to use best endeavours to avoid any unnecessary damage to, interference with, or destruction of wildlife, flora and fauna and their natural habitat whether on land or at sea; including without prejudice to the foregoing generality to refrain from the use of any chemical, substance, commodity, liquid, treatment, or otherwise which may be proscribed by any regulatory, statutory or other

competent authority and not to do or omit to do or permit any substance to be used or discharged which may under statute or common law or by reason of any matter affecting the Subjects or any other property of the Landlord (whether before or after the expiry of the Duration) cause the Landlord or any other party to become liable to pay any penalty, fine, damages, compensation, costs, charges or expenses or incur expenditure; declaring further that in the event that the Tenant or anyone acting as their employee or agent shall be convicted of any offence or commit any act which in the sole opinion of the Landlord constitutes a breach of the obligations imposed by this clause the Landlord shall be entitled by notice in writing given to the Tenant, to terminate the Lease but reserving all rights to the Landlord in respect of any antecedent breach by the Tenant.

#### Oysters and Mussels

7.9 if oyster beds or mussel scalps naturally exist or form on the Subjects or any part thereof, not to crop the same and to preserve the oysters and mussels.

#### Approval of Equipment

7.10 to submit to the Landlord for the Landlord's approval before installing the Equipment or the Ancillaries or any other equipment and others which are to be installed, fixed or anchored permanently or semi-permanently whether directly or indirectly (such Equipment and others being hereinafter called "the Equipment") on the Subjects such plans and/or specifications thereof as the Landlord may require and once approved by the Landlord, not to materially alter the Equipment or the Ancillaries nor to install or use any additional works or others without the previous written consent of the Landlord.

#### Maintenance

7.11 to maintain and keep the Equipment, the Ancillaries in good, safe and substantial repair, order and condition.

#### Litter etc

7.12.1 to keep the Subjects in a clean and tidy condition and to take all reasonable steps to prevent any litter or detritus of any kind arising directly or indirectly from the Tenant's operations to be deposited on any neighbouring subjects by whomsoever owned including without prejudice to the foregoing generality the complete removal of any redundant equipment (and associated moorings) and not to do or permit any other act whether or not sui generis with the foregoing on the Subjects which may in the sole opinion of the Landlord be or become a nuisance, annoyance or disturbance.

7.12.2 Without prejudice to the terms of Clause 7.12.1 hereof the Tenant shall, at their sole cost and expense, at all times during the currency of the lease, to prevent injury or damage to any person or property, take all reasonable steps to prevent any debris, litter or equipment of any description being deposited or remaining on the Subjects (including for the avoidance of doubt any litter, debris or equipment as may have been present at the date of entry under this Lease as to which the Landlord grant no warranty, the Tenant being deemed to have made all relevant enquiry); the Tenant shall not permit anything which is or may be or become a danger to the general public, to remain upon or near the Subjects and the Tenant shall ensure that the Subjects are maintained in a clean and safe condition at all times and clear of all rubbish or old or abandoned equipment or matter of any description and are returned to the Landlord upon termination of the Lease however effected in such condition.

#### Inspections and Repair

7.13 to permit the Landlord and any person duly authorised by them from time to time and at all reasonable times to enter into and upon and inspect the Subjects and the state and condition thereof and if any want of repair or defect shall be found or appear in the Equipment or the Ancillaries, the Landlord shall be entitled to serve notice upon the Tenant detailing such wants of repair or defect and upon

receiving notice to that effect the Tenant shall be bound to repair and amend the same within 3 months of the receipt of such notice.

#### Expenses and Inspections

7.14 in the event that the Landlord serves notice in terms of Clause 7.13, the Tenant shall pay to the Landlord all reasonable expenses incurred by the Landlord or their Agents as a result of said notice, including without prejudice to the foregoing generality any costs associated with any further inspections, monitoring and supervising the wants of repair or defects found in the Equipment or the Ancillaries

#### Exercise of Reserved Rights

7.15 not in any way to hinder or obstruct the due exercise and enjoyment of any rights or privileges hereby excepted and reserved.

#### Concurrent Rights

7.16 not to do or knowingly suffer to be done any act or thing whatsoever on the Subjects which shall in the sole opinion of the Landlord interfere with, interrupt, damage or diminish in any way the concurrent rights of the Landlord or other parties having rights as proprietors, tenants or operators of fishings or (without prejudice to the Tenant's obligations in terms of sub-Clause 7.21 hereof) as cultivators or rearers of any other fish existing or to be granted in respect of the Subjects wherever said fishings, cultivation or rearing may be situated.

#### Effect of Delay in Starting Production

7.17 not to delay unreasonably in establishing the said rearing and cultivation and in laying or installing the Equipment and the Ancillaries after the Date of Entry; declaring (a) without prejudice to the Tenant's obligation not to delay as aforesaid that if the Tenant has not established the said rearing and cultivating in a proper and businesslike manner and is not stocking and rearing the Species using the Equipment and any Ancillaries all to the reasonable satisfaction of the Landlord

on each of the Sites within 2 years of the Date of Entry (unless the Landlord shall have first agreed in writing that any of the Sites do not require to be established until a date later than 2 years from the Date of Entry such later date to be agreed by the Landlord, the Landlord's agreement to such matters or not as the case may be being at their sole discretion without any requirements to give reasons) or (b) that if at any time the Tenant ceases for a period longer than 12 months without the previous written consent of the Landlord to rear and cultivate and stock the Species in a proper and businesslike manner using the Equipment and any Ancillaries all to the reasonable satisfaction of the Landlord on all, some or any of the Sites, then in either such case the Landlord, after giving written notice to the Tenant requiring the Tenant to fulfil his obligations under this sub-clause within such period as may be determined by the Landlord, but being not less than 28 days . in the event of the failure of the Tenant so to fulfil his/their obligations, the Landlord shall be entitled, but not bound, to give further notice to the Tenant to that effect and to hold the rights hereby granted to the Tenant (and the Lease) as terminated ("Termination Notice") but only insofar as relating to the Site or Sites specified in the Termination Notice and shown on a plan to be annexed thereto ("the Terminated Subjects") and the Lease insofar Terminated Subjects shall be terminated with effect from the date of termination stated in the Termination Notice, but without prejudice to the Landlord's rights in respect of any antecedent breach of the Lease by the Tenant relative thereto. For the avoidance of doubt, the Lease insofar as relating to the remainder of the Subjects (if any) in the event of such termination as aforesaid shall continue and the extent of the Subjects which are let by virtue of this Lease with effect from the said date of termination shall be varied to exclude the Terminated Subjects. The Landlord and the Tenant shall thereafter execute a formal minute of variation to record the

variation of the Subjects and in respect of which the proper costs of the Landlord (including legal fees and disbursements) shall be paid by the Tenant.

#### Statutory Consents

7.18 to comply with all obligations imposed by any Act or Acts of Parliament relevant to the purpose for which the Subjects are let and including without prejudice to the foregoing generality all provisions and requirements of all European Union, United Kingdom and Scottish statutes and subordinate legislation, regulations and directives; the Tenant will obtain and exhibit a copy to the Landlord of their Marine Licence from the Scottish Government under the Marine (Scotland) Act 2010 and any other statutory or necessary consents including in particular but without prejudice to the foregoing generality (a) any necessary consent (including without prejudice to that generality consent from the relevant planning authority) for farming the Species on the Subjects and for installing the Equipment and Ancillaries and for such associated onshore development before initiating development of the Subjects and (b) any authorisation from the Scottish Environment Protection Agency necessary under the Water Environment (Controlled Activities) (Scotland) Regulation 2011 (as amended) or otherwise and any other consent necessary for the use of the Subjects as permitted under the Lease. The Tenant shall be bound at all times throughout the Duration to comply with all statutory duties and requirements relating to the Subjects and/or the Equipment, any Ancillaries, or the purpose for which the Subjects are let.

#### Indemnity

7.19.1 to indemnify Her Majesty and Her Successors and the Landlord, their officers and agents, now and in all time coming and to keep them indemnified from and against all and any actions, proceedings, fines claims, demands, costs and expenses in consequence of the exercise by the Tenant of the rights hereby granted howsoever said actions, proceedings, fines, claims, demands, costs and

expenses may arise and relate to this Lease or any matter or thing done or purported to be done in pursuance thereof or directly or indirectly out of the Tenant's occupation of the Subjects and whether they arise at statute or common law against Her Majesty, Her Successors, the Landlord or any third party and whether they are related to the Landlord's interest or the Tenant's interest herein which indemnity shall subsist after the expiry of the Duration; declaring expressly that said right of indemnity hereby conferred upon the Landlord shall not extend to indemnifying the Landlord from the consequences of any negligent act or omission of the Landlord which may give rise to any action, proceeding, claim, demand, costs or expenses whether at statute or common law, but declaring that the Landlord shall have right to contest any such actions, proceedings, claims or demands (howsoever such actions, proceedings, claims or demands may arise) as they in their sole discretion may decide.

7.19.2 To maintain in force Public Liability Insurance in the sum of at least £5,000,000 sterling (which sum shall be increased in each year by the amount by which the General Index of Retail prices published by the Central Statistics Office last published prior to the anniversary of the Date of Entry, has increased over the preceding twelve month period, failing which Index by such increased amount as the Landlord shall determine in their reasonable discretion) to include any liability of the Landlord to pay damages, fines, costs, or other costs of any nature which may be capable of falling directly or indirectly on the Landlord as a result of or in connection with the Tenants' occupation or use of the Subjects or the placing of equipment or the presence of any old or redundant equipment or structures upon or within the Subjects, and to provide the Landlord with evidence of such insurance and of the payment of the premium therefor upon request but no more than once per calendar year.

#### Removals and Restoration

7.20 at the termination of this Lease to leave the Subjects (or in the case of partial termination of the Lease under Clause 7.17 thereof insofar as that part of the Subjects in respect of which the Lease has been terminated) clean and in good condition and without prejudice to the foregoing generality to remove all forms of detritus arising from the Tenant's operations from the seabed and to remove the Equipment (and associated moorings) and Ancillaries, and any other old or abandoned equipment as debris or rubbish and generally to restore the Subjects (or part thereof as applicable) to a proper safe and clean condition all to the sole satisfaction of the Landlord and also to the satisfaction of any statutory planning or regulating authority.

#### Management Agreement

7.21 to operate in accordance with the principles and procedures set out in any Management Agreement.

#### Suitability of Subjects

8. The Tenant by their execution hereof accepts the Subjects in good and tenantable condition and repair and satisfactory in all respects for the purposes for which the same are let and shall have no claim against Her Majesty or Her Successors or the Landlord or their successors in respect of any loss or damage sustained by the Tenant as a result of the exercise by others of the public rights including those of navigation and fishing hereby reserved, or by the exercise of the rights by others of fishing for the Species.

#### Irritancy

9. If the rent herein provided for or any part thereof shall at any time be in arrears after the same shall have become due (whether legally demanded or not) or if there shall be any breach of any of the undertakings on the part of the Tenant contained in the Lease, or if the Tenant shall become apparently insolvent, or shall make any arrangement with creditors, or shall suffer any diligence to be levied on the Subjects, or being a company shall go into liquidation, whether voluntary or compulsory (otherwise than a voluntary

liquidation of a solvent company for the purpose of amalgamation or reconstruction on terms approved by the Landlord in writing) or suffer a receiver or an administrator to be appointed, or enter a Change of Control without the prior written consent of the Landlord, then and in any such case it shall be lawful for the Landlord at any time thereafter by notice in writing to bring the Lease to an end forthwith and to enter the Subjects and repossess and enjoy the same as if the Lease had not been granted, but without prejudice to any right of action or remedy of the Landlord in respect of the premature termination of the Lease or of any previous breach of any of the undertakings by the Tenant contained in the Lease, which irritancy is hereby declared to be pactional and not penal and shall not be purgeable at the Bar. Provided (a) that in the case of a breach which is capable of being remedied the Landlord shall not be entitled to terminate the Lease as aforesaid unless and until it shall first have given notice of the breach to the Tenant and to every creditor in any then existing standard security or floating charge affecting the Lease (provided always that such creditor, together with any relevant reference number has been notified to the Landlord) prescribing a time which in the reasonable opinion of the Landlord is reasonable in the circumstances (such circumstances not including the financial position of the Tenant) within which such breach must be remedied and the Tenant or any such creditor shall have failed to remedy the breach within the time prescribed in the notice and declaring that where the breach is the failure to pay any sum of money a reasonable time shall be a period of not less than fourteen days and (b) in the case of the Tenant going into liquidation or suffering a receiver or an administrator to be appointed or in the case of any such creditor calling up its security the Landlord shall allow the liquidator, administrator or receiver (as the case may be) and any such creditor as aforesaid a period of one year in which to dispose of the Tenant's interest in the Lease and shall only be entitled to terminate the Lease if the liquidator, administrator or receiver or such creditor as the case may be shall have failed to dispose of the Tenant's interest at the end of the said

period provided always that the liquidator, administrator or receiver as the case may be or such creditor shall personally accept in probative writing and implement full responsibility for payment of the rents (whether due in respect of the period occurring before or after the date of liquidation, administration or receivership as the case may be) and for the performance or all other obligations of the Tenant under the Lease from the date of liquidation, administration or receivership as the case may be to the date of disposal or termination of the Lease including settlement of any arrears of the rents and the performance of any outstanding obligations which may subsist at the date of liquidation, administration or receivership as the case may be. And it is hereby declared that the Landlord shall deal with any request for consent to assign the Lease made by such liquidator, administrator or receiver or creditor as the case may be in the same manner as if the request had been made by the Tenant.

#### Arbitration

10. Subject to the Arbitration (Scotland) Act 2010, all questions, disputes and differences of whatever nature arising between the parties in connection with this Lease either during the course of the same or after the termination thereof shall (failing agreement) be submitted to arbitration by an Arbitrator mutually appointed or failing agreement upon the appointment of an Arbitrator then by an Arbitrator nominated by the President for the time being of the Scottish Branch of the Royal Institution of Chartered Surveyors, it being agreed that the award (interim or final) of such Arbitrator including the question of costs in any such arbitration shall be final and binding upon both parties; declaring for the avoidance of doubt 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.

#### Notices

11. All notices hereunder shall be in writing and if sent by post shall be sent by recorded delivery post and shall be deemed to be received at the same time of day 2 business

days (Saturday, Sunday and public holidays being excluded) after posting. Notices by or on behalf of the Landlord to either the Tenant or the Guarantor (if applicable) shall be addressed to the registered office in the case of a corporate body and in the case of a Tenant or Guarantor (if applicable) who is not a corporate body to their address as given herein or to the last known private or business (as the case may be) address and if the Tenant or the Guarantor (if applicable) is more than one person to such address of any one of these persons.

#### Costs

12. The Tenant will be responsible for the costs incurred by the Landlord in connection with this Lease, including any legal and surveying costs incurred in negotiating and preparing this Lease, the costs of preparing any plan and any additional costs and expenses arising. The Tenant shall pay or reimburse to the Landlord any charges made by the Valuation Office Agency (as defined in Part 1 of the Schedule) or costs incurred by the Landlord in respect of any reference made to the Valuation Office Agency for determination of or in relation to the Rent, but only if such reference is made at the request of the Tenant.

#### Variations of Lease

13. No variations hereof shall be effective unless made in writing executed by the parties.

#### Law

14. The interpretation and meaning of these presents and of any documentation or agreement supplemental thereto, the rights and obligations of the parties and any questions arising at any time between the parties hereunder or thereunder, shall be determined in accordance with the Law of Scotland, and the parties hereto, if not otherwise subject to the jurisdiction of the Scottish Courts, hereby severally prorogate the jurisdiction of the Scottish Courts hereunder and thereunder.

#### Land and Buildings Transaction Tax

15. The Tenant shall make any return relating to Land and Buildings Transaction Tax and pay any Land and Buildings Transaction Tax to Revenue Scotland consequent upon this Lease. The Tenant shall deliver to the Landlord a copy of the Land and Buildings Transaction Tax submission receipt issued by Revenue Scotland within 30 days of the Date of Entry.

CONFIDENTIAL



This is the SCHEDULE referred to in the foregoing LEASE between CROWN ESTATE SCOTLAND and [ ] for the sites known as [ ]

## SCHEDULE

### PART 1

The Rent payable in any Year in respect of the Species is calculated in accordance with Part A of this Part 1 of the Schedule.

The Rent for Other Fish is determined in accordance with Part B of this Part 1 of the Schedule; and

To ascertain the total Rent payable in any Year the Species Rent and the Other Fish Rent insofar as applicable will be added together.

#### Definitions

In this Part 1 of the Schedule the following words or phrases shall have the following meanings:

**“European Salmon Selling Price”** means the selling price for 4 to 5 kilogram fresh Atlantic salmon on the French Rungis market as published daily by Intrafish Media (or any other substitute publisher);

**“Other Fish”** means smolt, shellfish or other marine species (whether by products or not) sold off the fish farm or farms operated within the Subjects or cultivated or reared on the fish farm or farms operated within the Subjects and delivered from it to any third party under any contracts or agreements with such third party;

**“Other Fish Rent”** means the Rent calculated in accordance with Part B of this Part 1 of the Schedule;

**“Outer Islands”** means the Islands of Orkney, Shetland and the Outer Hebrides;

**“Quarterly Payment Dates”** means 1<sup>st</sup> March, 1<sup>st</sup> June, 1<sup>st</sup> September and 1<sup>st</sup> December in each Year;

**“Rent Assessment Year”** means the period of 12 calendar months commencing on 1st January and ending on 31st December immediately preceding the Rent Payment Year save that the first Rent Assessment Year shall be the period from the Date of Entry until the 31<sup>st</sup> December first occurring after the Date of Entry (although less than 12 months);

**“Rent”** means the total of the Species Rent and Other Fish Rent;

**“Rent Payment Year”** means the Year 1st January to 31<sup>st</sup> December immediately following the expiry of the Rent Assessment Year;

**“Species Rent”** means the Rent calculated in accordance with Part A of this Part 1 of the Schedule;

**“Valuation Office”** means the Valuation Office Agency;

**“Year”** means for the purposes of this Part 1 of the Schedule the period of 12 months commencing on 1st January and ending on 31st December;

An independent review (**“the Review”**) of the Rent to be paid under fish farming leases was completed in November 2016. From the period 1 January 2019 until the next Rent Review, Rent will be calculated as per Part A of Schedule of this Lease.

## Part A

## Calculation and Payment of Rent

1. The Species Rent for the Year shall be calculated as follows:
  - (a) If the Sites are not situated in the Outer Islands it shall be 2.75 pence per kilogram of Total Production of Species for the Year;
  - (b) If the Sites are situated in the Outer Islands it shall be 90% (Ninety per cent) of the value of 2.75 pence per kilogram of Total Production of Species for the Year.
2. The Tenant shall pay the Rent by dividing the total Rent payable for the Rent Payment Year into four equal quarters and paying one such quarter on each of the Quarterly Payment Dates.
3. The Landlord shall be entitled to review the rate to be used to calculate the Rent per kilogram for Species Rent on each and any of the following events:
  - 3.1 a period of 5 Years shall have elapsed since the last 5 Yearly review of the Species Rent rate shall have taken place so that the Landlord shall be entitled to review such Species Rent rate on 1st January 2022 and on every fifth anniversary of that date throughout the Duration; or
  - 3.2 the European Salmon Selling Price shall have fallen below €2.80 (euros) per kilogram for a period longer than 6 consecutive months or shall have risen above €7 (euros) per kilogram for a period longer than 6 consecutive months
4. If the Tenant has failed to provide the return of the Total Production information for the Rent Assessment Year in question by the 31st January in the Year in which the Rent is payable, then to calculate the Species Rent the Landlord will use the average of the Total Production used to calculate the Species Rent for the 3 Years (or if the number of Years is less than 3 the actual number of Years) immediately preceding the Rent Assessment Year in respect of which no return of Total Production information has been provided and the Species Rent will be calculated as above provided in this Part 1 of the Schedule.

5. The actual Rent payable on the Quarterly Payment Date for each Site for any Year shall be calculated as follows:

- (1) If there has been any production at all on the Site, the Rent shall be the total of the Species Rent and the Other Fish Rent as above; or
- (2) If there has been no production at all on the Site and a return of the Total Production has been made disclosing nil production, the Rent shall be the Vacant Rent.
- (3) For the avoidance of doubt, the Rent for the period from the Date of Entry until the 31<sup>st</sup> December first occurring after the Date of Entry (even although it is less than a full year) and payable quarterly on the Quarterly Payment Dates in the Year following the year in which the Date of Entry falls, shall be calculated on the basis of either (a) the total of the Species Rent and the other Fish Rent if there has been any production at all in such period, or (b) if there has been no production at all in such period, a return of Total Production shall be made for such period disclosing nil production, and the rent shall be the sum equivalent to the Vacant Rent for that Year.

The Vacant Rent for each Site for any Year shall be calculated as follows:

For each Year in which any Site is not in production for all or part of the Year, the Vacant Rent shall be:

- (a) £1000 per annum exclusive of Value Added Tax for the first 4 consecutive Years in which the Site is not in production;
- (b) £2,000 per annum exclusive of Value Added Tax for the next 2 Years after the expiry of the first 4 Years in which the Site continues not in production; and
- (c) for so long as any Site remains not in production throughout the Duration other than the first 6 Years of being continuously not in production then the Vacant Rent shall increase every second Year by 100% of the immediately preceding Vacant Rent rate throughout the Duration or until production on such Site commences or resumes

- so that for example after the expiry of 8 Years with no production having taken place the Vacant Rent shall be £4000 per annum exclusive of VAT and after 10 Years with no production having taken place the Vacant Rent shall be £8000 per annum exclusive of VAT and so forth increasing every second Year.

With effect from 1st January 2022 and every fifth anniversary of that date throughout the Duration the Landlord shall be entitled to review the rate per kilogram to be charged in respect of the Species Rents and also the Vacant Rent to such rate and sum as the Landlord shall determine appropriate in the circumstances.

## Part B

## Other Fish Rent

The Other Fish Rent payable for a Year shall be an amount which failing agreement between the parties shall be determined by the Valuation Office acting as an independent expert after the parties have had an opportunity to make representations. Such amount if a fixed amount will be payable by equal quarters on the Quarterly Payment Dates. If the amount is to be paid as a function of the volume of production, then the payments will be calculated and made on the same basis and process as for the Species Rent set out Part A of this Part 1 of the Schedule and payable on the same basis using the same rate and the same dates as the Species Rent. The frequency of review and the basis of review of Other Fish Rent shall be agreed between the parties or failing agreement determined by the Valuation Office acting as an independent expert after the parties have had an opportunity to make representations.

SCHEDULEPART 2Part (a)

The Subjects are ALL and WHOLE that piece or those pieces of seabed and/or foreshore situated at or near [ ] and for the purpose of registration of writs in the County of [ ] and which is or are delineated and coloured pink on the plan or plans marked "Fish Farm Plan" annexed and signed as relative hereto, and which comprises 1 Site(s) being that, the approximate location or intended location of which is specified in the Schedule of Co-ordinates and are known or to be known as follows:-

Site Number	Site Name ("the Subjects ")	Equipment ("the Equipment ")
1		Specify number of cages and any feed barges here

or such other equipment as may be permitted by the Landlord

Part (b)

The ancillaries as referred to in Clause 1 of this Lease is or are:-

( include any equipment such as moorings, slipways etc here)

as coloured green on the plan marked "Ancillary Equipment Plan" annexed and signed as relative hereto

or such other equipment as may be permitted by the Landlord.

(" the Ancillaries ")

SCHEDULE

PART 3

The following are the conditions referred to in sub-clause 7.7 of the foregoing Lease: -

Installations other than navigation markers should be dark matt grey in colour to reduce the effects on the landscape.

The sites included in this lease are deemed to be the areas approved for salmon farming in accordance with Planning Consent number [ ] dated [ ] . Modifications to the site will be subject to the agreement of Crown Estate Scotland.

The permitted installations in the leased areas will be confined to equipment required for the purpose of salmon farming, subject to any restrictions or conditions specified in the Planning Consent and agreed by Crown Estate Scotland.

If applicable the sites are to be operated in accordance with agreed fallowing and rotational policy.

SCHEDULE

PART 4

The lease or leases referred to in Clause 2 as being renounced by the Tenant are the lease or leases by the Crown Estate Commissioners/the Landlord in favour of the Tenant dated [ ] relating to site(s) known as [ ].



For Crown Estate Scotland (signature) .....

Witness (signature) .....

For Tenant (signature) .....

Witness (signature) .....

SCHEDULE  
PART 5

**SCHEDULE OF CO-ORDINATES**

**(Copy and paste Schedule of Co-ords from GIS here)**

For Crown Estate Scotland (signature) .....

Witness (signature) .....

For Tenant (signature) .....

Witness (signature) .....





**Crown Estate  
Scotland**

Oighreachd a' Chrùin Alba

File Number: ( )

LEASE

between

CROWN ESTATE SCOTLAND

and

(Company Name & Registered Number)

Subjects: (Name of Site & Location)

Period: (Lease Term)