



Date:

2016

Landlord:

The Crown Estate Commissioners

Tenant:

Kilbirnie Angling Club

Fishings:

Maich Water, Kilbirnie Loch, Barr Loch
River Clyde
(CRF 270-34)

Salmon Fishings Lease - River Clyde

The Crown Estate
6 Bell's Brae
Edinburgh
EH4 3BJ

Anderson Strathern LLP
1 Rutland Court
Edinburgh EH3 8EY
FAS0208

LEASE

between

THE CROWN ESTATE COMMISSIONERS on behalf of Her Majesty the Queen in exercise of the powers of The Crown Estate Act 1961 (hereinafter called "the Commissioners")
OF THE FIRST PART

and

KILBIRNIE ANGLING CLUB per [REDACTED]
[REDACTED] secretary for the time being and his successors in office (hereinafter called "the Tenant")
OF THE SECOND PART

IT IS CONTRACTED AND AGREED between the Commissioners and the Tenant as follows:-

1. DEFINITIONS

In this Lease unless the context otherwise requires the following terms shall have the following meanings:-

the Commissioners	The Crown Estate Commissioners, above designed and their successors whomsoever as proprietors of the Fishings, and (where the context so admits) their agent on their behalf;
Consent	the written consent of the Commissioners;
the Fishings	as described in Schedule A annexed and signed as relative hereto;
the Fishing Rules	as described in Schedule B annexed and signed as relative hereto;
Permit	daily, weekly or seasonal permit;
the Plan	the plan annexed and signed as relative hereto, (which is declared to be demonstrative only and accepted by the parties as that in character);
the Salmon Acts	the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 and all Acts, Statutory Instruments, Regulations or Orders affecting salmon or fish of the salmon kind as may from time to time be in force or promulgated as

the same may be amended or consolidated from time to time;

the Tenant where the context so admits, the Tenant himself (the singular including the plural) and those having the Tenant's authority to exercise the rights of Fishing hereby let, the Tenant's employees and, if appropriate, Permit holders;

the Wildlife Acts the Wildlife and Countryside Act 1981, the Nature Conservation (Scotland) Act 2004 and the Wildlife and Natural Environment (Scotland) Act 2011 and any Act, Statutory Instrument, Regulation or Order amending same.

2. SUBJECTS

The Commissioners in consideration of the rent and other prestations herein specified HEREBY LET the Fishings to the Tenant but excluding assignees and sub-tenants unless with the Consent of the Commissioners (which Consent may be withheld at the sole discretion of the Commissioners).

3. DURATION

The duration of this Lease shall be for a period of 5 years commencing on 1st January 2016 and terminating on 31st December 2020 notwithstanding the date or dates hereof.

4. RENT

The Tenant BINDS and OBLIGES himself and his foresaids to pay to Her Majesty and Her Successors or to the Commissioners or to any persons who may from time to time be appointed to receive the same and at such place or places as the Commissioners shall from time to time appoint an annual rent of [REDACTED] plus Value Added Tax at the current rate for the Fishings in advance at 1st January in each year for the year to 31st December following, commencing the first payment of the said rent at 1st January 2016 for the succeeding year and so forth yearly during the currency hereof with interest at the rate of Three per cent (3%) per annum above the Bank of Scotland base rate from time to time applicable from the time at which the said rent becomes due until the actual payment thereof which rent will be reviewed with effect from the 1st January 2017.

5. RIGHT TO GRANT PERMITS

Notwithstanding the exclusion of sub-tenants and assignees the Tenant shall, with the Consent of the Commissioners, have the right to grant Permits only to individuals (which, for the avoidance of doubt, shall exclude all groups of individuals) to fish by rod and line

within the bounds of the Fishings but subject to such regulations, recommendations, rules and conditions as may from time to time be laid down by the Commissioners, the District Salmon Fishery Board, by any fishing improvement association or other recognised body concerned with the regulation of the Fishings; BUT DECLARING that

- (i) Permits shall be refused or may be withdrawn at the discretion of the Commissioners or the Tenant or any officials appointed by them and acting on their behalf;
- (ii) Permits will not be granted to persons convicted of offences under the Salmon Acts or the Wildlife Acts or to those whom the Commissioners believe to be unsuitable;
- (iii) the Commissioners and the Tenant shall not be required to give reasons for such refusal or withdrawal.

6. ASSESSMENTS AND RATES

The Tenant binds and obliges himself and his foresaids

- (i) to pay all present and future taxes, rates, assessments, levies, licence fees and outgoings whatsoever payable in respect of the Fishings;
- (ii) without prejudice to the foregoing generality to refund to the Commissioners any fishery assessment levied by the District Salmon Fishery Board within whose district the Fishings are situated, or to refund to the Commissioners any assessments whether voluntary or otherwise levied by the said District Salmon Fishery Board or other body involved in the management of the river in respect of the Fishings; and
- (iii) declaring that the Commissioners shall have the right to charge interest at the rate of Three per cent (3%) per annum above the Bank of Scotland base rate from time to time applicable on any sums due and outstanding as refunds by the Tenant in terms hereof from the time at which the said refunds become due until the actual payments thereof.

7. EXERCISE OF RIGHTS

The right of rod fishing hereby let shall be exercised at all times by the Tenant in a fair and sportsmanlike manner with each angler using a single rod only at any time and in particular shall be subject to the Fishing Rules.

8. POACHING OR UNLAWFUL FISHING

The Tenant binds himself and his foresaids and power is hereby conferred upon him to take expeditiously at his own expense all action including such proceedings in the Civil or

Criminal Courts as may be necessary to prevent poaching, unlawful fishing or exercise of prohibited methods of fishing in any part of the Fishings and to prevent persons who do not hold Permits from fishing by any manner in the Fishings and generally to enforce compliance with the provisions of this Lease and the laws applicable to salmon fishings as contained in the Salmon Acts.

9. IMPROVEMENTS AND ALTERATIONS

The Tenant shall not carry out any improvements or effect any alterations to the Fishings without the Consent of the Commissioners. In the event that Consent is given to the Tenant to carry out improvements or alterations to the Fishings no compensation in respect of such permitted improvements or alterations shall be due or payable by the Commissioners and any such improvements or alterations shall be carried out

- (i) in such a way as to obviate any interference with or violation of the rights of occupiers or proprietors of fisheries upstream or downstream or of adjoining or contiguous riparian proprietors;
- (ii) in accordance with the recommendations of an engineer experienced in such matters; and
- (iii) with the approval of any existing District Salmon Fishing Board for the area in which the Fishings are situated.

For the avoidance of doubt any Consent given in terms of this clause shall not imply that the Commissioners or their agents are satisfied as to the suitability or efficiency of any such permitted improvements or alterations and the Tenant shall indemnify the Commissioners in all respects from all consequences of or claims arising as a result of such permitted improvements or alterations. The Tenant will also be responsible for obtaining Planning or other relevant permissions.

10. ACCESS

The Tenant will exercise at all times his rights of access to the fishings in a proper and responsible manner.

11. RECORDS

The Tenant shall furnish to the Commissioners accurate yearly returns (on a pro forma form to be issued by the Commissioners which shall be completed in all respects by the Tenant) of the numbers and weight of fish caught during the season, together with, if any, the numbers of Permits issued and the revenue derived therefrom broken down on a monthly basis, all such information to be submitted to the Commissioners not later than two months after the close of the immediately preceding rod fishing season.

Notwithstanding the foregoing the Tenant, if requested, shall furnish to the Commissioners (i) (on a *pro forma* form to be provided by the Commissioners and within 21 days of being so requested) such catch details as may be required by the local District Salmon Fishery Board in terms of the Conservation of Salmon (Collection of Statistics) (Scotland) Regulations 2006 as same may be amended from time to time and (ii) within 21 days of being so requested such records and returns as may be reasonably requested by the Commissioners to add to their knowledge and understanding of the Tenant, its operations and the Fishings.

12. MAXIMUM NUMBER OF ANGLERS

A maximum of FIFTEEN anglers shall be permitted to fish the subjects of let at any one time and the Commissioners reserve the right at any time to vary within reason such maximum number whether for the whole fishing season or for specified times during the fishing season.

13. IRRITANCY

Subject always to the provisions of Sections 4 or 5 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, if at any time during the currency of this Lease:

- (a) the rents (or any of them or any part thereof) shall be in arrear and unpaid for 14 days after becoming payable, or
- (b) there shall be any breach, non-performance or non-observance by the Tenant of any of the obligations and conditions contained in this Lease; or
- (c) the Tenant (being an individual or firm) grants a trust deed for creditors or becomes apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985 or (being a company) enters into liquidation whether compulsory or voluntary (save for the purpose of amalgamation or reconstruction of a solvent company) or has a receiver or administrator appointed or makes a proposal for a voluntary arrangement within the meaning of the Insolvency Act 1986 (in either case) suffers any diligence to be done or execution to be levied on his goods

then and in any of the said cases, the Commissioners shall be entitled forthwith to terminate this Lease and treat this Lease and all transmissions thereof with all that has followed or can competently follow thereon as void and null and that without the necessity of any declarator, process of removal, or other procedure at law and the Fishings shall thereupon revert to the Commissioners and it shall be lawful for the Commissioners or any person or persons duly authorised by the Commissioners in that behalf to enter upon the possession of the Fishings or any part thereof in name of the whole and to uplift rents,

ject permit holders or others authorised by the Tenant and thereafter use, possess and enjoy the same free of all claims by the Tenant as if this Lease had never been granted without prejudice to any right of action or remedy of the Tenant in respect of the premature termination of this Lease or of any antecedent breach by the Commissioners of any of the conditions contained in this 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 Commissioners shall not be entitled to terminate this Lease as aforesaid unless they shall first have given notice of the breach to the Tenant prescribing a time which in the opinion of the Commissioners 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 shall have failed to remedy the breach within the time prescribed in the notice (declaring that the conviction of the Tenant of poaching or taking fish by illegal means shall not be deemed to be a breach hereof which is capable of being remedied as aforesaid and upon such a conviction this Lease shall be terminated forthwith upon notice being given) 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 14 days and (b) in the case of the Tenant going into liquidation or suffering a receiver or administrator to be appointed the Commissioners shall allow the liquidator, receiver or administrator (as the case may be) a period of one year in which to dispose of the Tenant's interest in this Lease and shall only be entitled to terminate this Lease if the liquidator, receiver or administrator 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, receiver or administrator as the case may be shall personally accept in probative writing and implement full responsibility for payment of the rents (whether due in respect of a period occurring before or after the date of liquidation or administration or receivership as the case may be) and for the performance of all other obligations of the Tenant under this Lease from the date of liquidation or administration or receivership as the case may be to the date of disposal or termination of this 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 shall if reasonably requested by the Commissioners find caution for such payment and performance in an amount acceptable to the Commissioners. And it is hereby declared that the Commissioners shall deal with any request for consent to assign this Lease made by such

liquidator, receiver or administrator or creditor as the case may be in the same manner as if the request had been made by the Tenant.

14. REMOVAL

The Tenant binds and obliges himself and the persons holding Permits from him to flit and remove himself and his servants, goods and gear from the Fishings at the expiry or sooner termination of this Lease all without any warning or process of removal; Declaring that in the event of possession being retained by the Tenant on any pretence whatever after the expiry hereof the rent payable in respect of retaining possession for each year or part of a year of such continued possession shall be increased at the option of the Commissioners.

15. GHILLIE

The Tenant may during the currency of this Lease retain a full time or part time ghillie employed by the Tenant to look after the Fishings. For the avoidance of doubt the Tenant shall not employ any person convicted of any offence under the Salmon Acts and/or the Wildlife Acts.]

16. INSURANCE AND SAFETY

16.1 The Tenant shall throughout the currency of this Lease maintain public liability insurance from a recognised United Kingdom insurer in respect of the Fishings in the minimum sum of FIVE million POUNDS (£5,000,000m) STERLING all to the reasonable satisfaction of the Commissioners. If called upon to do so by the Commissioners the Tenant shall exhibit premium receipts in respect of such public liability insurance.

16.2 The Tenant shall ensure that he, those authorised by him, and permit holders use appropriate safety equipment such as buoyancy aids.

17. POISONOUS SUBSTANCES

The Tenant shall not in connection with the Fishings lay down any poisonous substances for the destruction of any living creature whether protected by the Wildlife Acts or not or for any other purpose or any unclean food on or adjacent to any part of the Fishings.

18. THE WILDLIFE ACTS

The Tenant shall

- (i) not unlawfully kill, injure or take by any means in connection with the Fishings any species of animal or bird which is protected under the provisions of the Wildlife Acts;

- (ii) use his best endeavours to prevent third parties including, without prejudice to the foregoing generality, the Tenant's members, volunteers, and other persons exercising the rights of Fishing from doing so;
- (iii) at all times have available for all persons employed by him [*where the Tenant is an angling association:* and/or the Tenant's members] to refer to a copy of the relevant provisions of the Wildlife Acts;
- (iv) provide training to the Tenant's employees [*where the Tenant is an angling association:* and/or the Tenant's members] relative to compliance with the Salmon Acts and the Wildlife Acts and provide written confirmation to the Commissioners on an annual basis of (i) the training provided and (ii) the checks undertaken by the Tenant to confirm his employees [*where the Tenant is an angling association:* and/or the Tenant's members] are complying with the Wildlife Legislation and Salmon Acts; and
- (v) instantly dismiss from his service any person employed by him who is convicted of an offence under the Salmon Acts and/or the Wildlife Acts and the employment contracts of any employees of the Tenant shall include clauses obliging said employees to comply with the Salmon Acts and the Wildlife Acts and stating that conviction of an offence under the Salmon Acts and/or the Wildlife Acts is a ground for instant dismissal. Declaring that the Tenant will provide a copy of the employment contract(s) to the Commissioners on request.

19. DISPUTES

Disputes whether arising during the course of or after the termination of this Lease, whether as to matters of interpretation or as to the rights of the parties, will be dealt with and subject to the Arbitration (Scotland) Act 2010. Failing agreement on any matter of dispute between the Commissioners and the Tenant this shall be referred to a mutually agreed arbitrator. Failing agreement on the appointment of an arbitrator, either of the parties may apply for an arbitrator to be nominated by the President of the Royal Institution of Chartered Surveyors, Scottish Branch and the decision of such arbitrator shall be final and binding on both parties.

20. WARRANTY

The Commissioners warrant this Lease from their own facts and deeds only.

21. EXPENSES

The Tenant shall free and relieve the Commissioners of any costs and expenses arising in connection with the preparation of the Lease and any Addendum or Agreement

following thereon, and in particular shall bear the costs of preparation of the plan to be attached hereto;.

22. SEVERABILITY

If any term or provision of this Lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

23. ENTIRE TERMS

This Lease comprises all the express terms of the contract between the parties.

24. ADVERSE CLAIMS

In the event of any party other than the Commissioners establishing title to the Fishings or any part thereof, of which the Commissioners shall be the sole judge, the Commissioners shall be entitled to resume the Fishings or the relevant part thereof, without any compensation being paid, immediately upon the issue of a resumption notice.

25. REGISTRATION

The parties hereto consent to the registration hereof for preservation and execution: IN WITNESS WHEREOF

They are in terms of Act of Parliament
signed by

Name in BLOCK CAPITALS

.....
Signature

Authorised by the Crown Estate
Commissioners to act on behalf of a
Secretary of the Office of us the said
Crown Estate

at EDINBURGH

on the 14TH day of MARCH 2016
before this witness:

Signature:

Full Name in block capitals:

Address:

THE CROWN ESTATE

6 BELLS BRAS

EDINBURGH EH4 3BJ

by secretary/authorised
signatory, on behalf of the said Kilbirnie
Angling Club

at KILBIRNIE

on the 15TH day of MARCH 2016
before this witness:

Signature:

.....
.....

Full Name in block capitals:

.....
.....

Address:

.....
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SCHEDULE A

THE FISHINGS

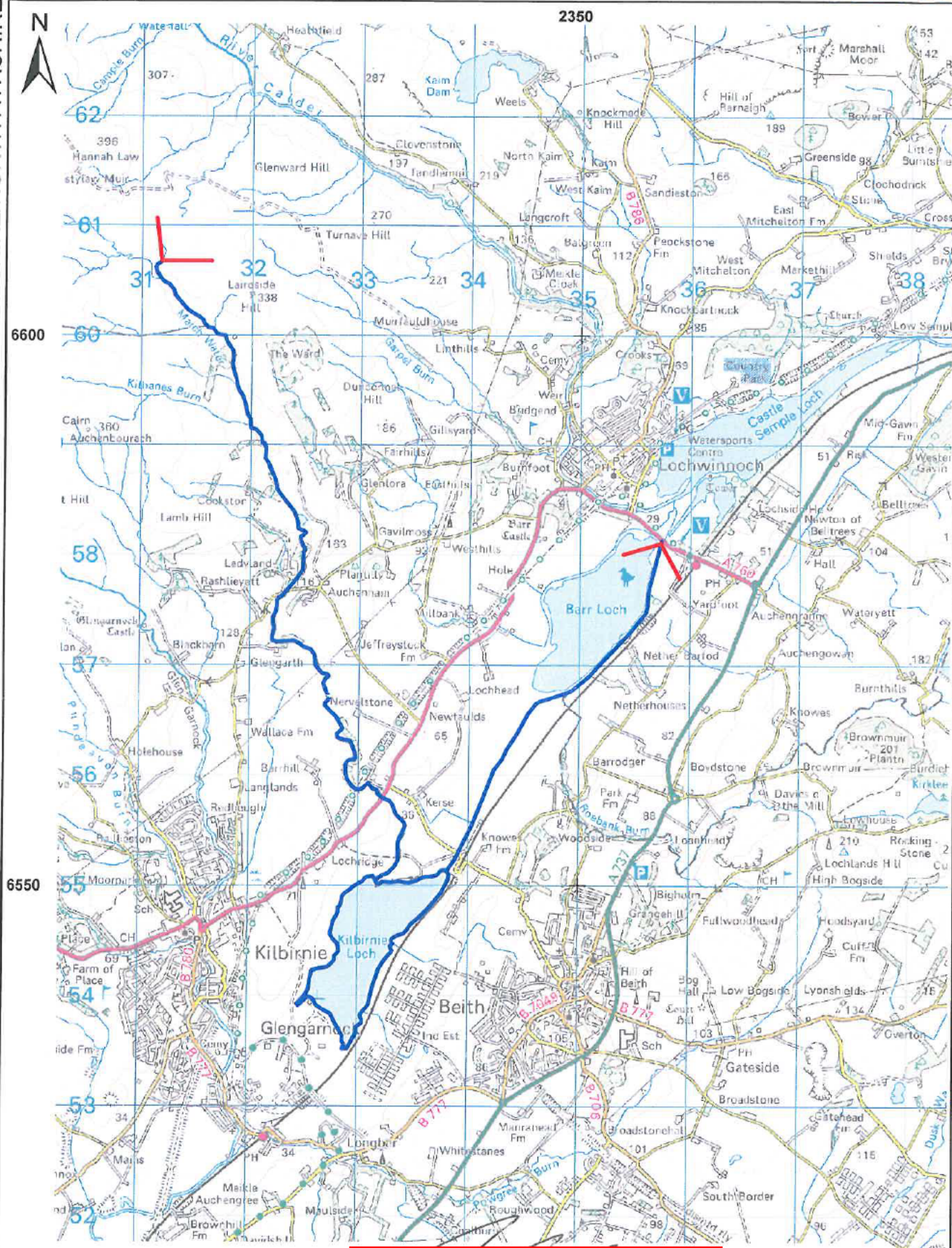
ALL and WHOLE the right, title and interest of Her Majesty in and to the rod fishings for salmon and fish of the salmon kind within (i) the Maich Water at Kilbirnie, Renfrewshire; (ii) Kilbirnie Loch at Kilbirnie, North Ayrshire; (iii) the channel leading from the said Kilbirnie Loch to Barr Loch, Lochwhinnoch, Renfrewshire; (iv) a non exclusive right to fish for salmon and fish of the salmon kind within the said Barr Loch, the extent of which fishings within the said Maich Water, Kilburnie Loch, the channel leading from Kilburnie Loch to Barr Loch and Barr Loch as indicated between the vertical red lines and coloured blue on the plan; and (v) any feeder streams flowing into the said sections of the Maich Water, Kilbirnie Loch, the channel from Kilburnie Loch to Barr Loch and Barr Loch.

SCHEDULE B
FISHING RULES

- (a) The use as a bait of natural prawns and shrimps and imitations thereof will not be permitted. The use of worm as a bait will not be permitted.
- (b) All fly fishing will be by means of a single fly rod only with reel line and nylon leader; wirecast, bubble float, and all weights including leaded lines and loaded flies are prohibited at all times; where spinning or bait fishing is permitted such will be carried out by means of a single rod and any weights used shall be consistent with the lure or bait employed;
- (c) Any fish that may be foul-hooked shall immediately be returned to the water undamaged and alive;
- (d) Without prejudice to the foregoing the Tenant will comply at all times with all relevant provisions regulating salmon fishing under the Salmon Acts including in particular strict observance of the weekly and annual close times for rod fishing and with any regulations, recommendations, rules and conditions that may be promulgated from time to time by the Commissioners, the District Salmon Fishery Board, by any fishing improvement association or other body involved in the management of the river, which shall include without prejudice to the foregoing generality compliance with any catch and release policy and with any alternating or rotating beat arrangements which may be entered into by the Commissioners with any adjoining salmon fishing proprietor.
- (e)
 - (i) The Tenant accepts that, whilst the right to salmon fishings granted by the Lease carries also with it the right to fish for brown trout, the riparian owner, and those authorised by him, are also entitled to fish for brown trout and must not be hindered from doing so.
 - (ii) If, in respect of the Fishings let in terms of the Lease there is a Brown Trout Protection Order in force, or one which comes into force during the currency of the Lease under Part 4 of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 as the same may be amended, the Tenant may not hinder or jeopardise the operation thereof. Any prior agreement between the Tenant and others in respect of access to the Fishings for the purpose of angling for brown trout shall be allowed to continue.
- (f) The Commissioners, after consultation with the Tenant, reserve the right to impose limits on catches or a catch and release policy.

SAL 270 (34) MAICH WATER

RENFREWSHIRE/NORTH AYRSHIRE



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