

## MINUTE OF VARIATION

between

**THE SCOTTISH MINISTERS,**  
Victoria Quay, Edinburgh,  
EH6 6QQ (the Scottish  
Ministers")

and

**SERCO LIMITED,**  
incorporated in England  
(Company No. 00242246) and  
having its registered office at  
Serco House, 16 Bartley  
Wood Business Park, Bartley  
Way, Hook, Hampshire, RG27  
9UY ("the Operator")

### WHEREAS

- A The Scottish Ministers and the Operator ("the Parties") entered into a contract dated 1 June 2012 for the provision of ferry services to the Northern Isles ("the Contract")
- B The Parties have agreed to amend the terms of the Contract.
- C Provision is made in terms of clause 47 the Contract for its amendment by way of a formal variation in writing

### NOW THEREFORE It is agreed as follows:

- 1 In this Minute of Variation, unless the context otherwise requires, the definitions and interpretations set out in Schedule 1 to the Contract shall apply.
- 2 From and including the 1 June 2012, the Contract shall be read and construed as varied by the provisions set out in the Schedule to this Minute of Variation.
- 3 Subject to Clause 2 (Conditions Precedent) of the Contract, the Contract shall remain in full force and effect and the terms of the Contract shall have effect

as though the provisions contained in the Schedule had been originally contained in the Contract.

- 4 This Minute of Variation is governed by Scots law and is subject to the exclusive jurisdiction of the Court of Session.

IN WITNESS WHEREOF this Minute of Variation and the Schedule which is annexed and identified as relative hereto has been duly executed by the Parties as follows:

**SIGNED for and on behalf of THE SCOTTISH MINISTERS**

Signature

Name

Position

Witness

Witness' full name

Witness' address

Date

Place (town)      Edinburgh

**SIGNED for and on behalf of SERCO LTD**

Signature

Name

Position

Witness

Witness' full name

Witness' address

Date

Place (town)      Edinburgh

**This is the Schedule referred to in the foregoing Minute of Variation between the Scottish Ministers and the Operator.**

## **SCHEDULE**

The Contract is hereby amended as follows:

1 In Schedule 1 (Definitions and Interpretation):-

(i) Delete the definition of "Charter Portion" in its entirety and replace with:

"Charter Portion means the instalments of Charterhire, as shown in the applicable Base Case, and all other amounts payable by the Operator to the Lessor under the Ship Charters (save for amounts payable under clauses 20.2(b)(i), 24.3 and 24.4 of each Ship Charter), in each case on the date when the relevant amount is expressed to be due under the relevant Ship Charter".

(ii) In the definition of "Lessor" delete "Royal Bank Leasing Limited" and replace with "Northern Isles Ferries Limited (a company incorporated in England with company number 05038970)

(iii) In the definition of "Ship Charters" delete "time" in line 1

2 In clause 2.1 delete "Royal Bank Leasing Limited" where it occurs and replace with "the Lessor"

3 In clause 3.1 delete "14.00" and replace with "15:00"

4 In clause 11.3 insert the following at the end:-

"The Scottish Ministers acknowledge that the Operator is required to obtain the written approval of the Lessor to the Evaluation (in accordance with clause 6.3(f)(ii) of the Common Terms Agreement entered into by the Lessor and the Operator on the same date as, and in connection with, the Ship Charters) prior to delivery of the same. The Operator shall use all reasonable endeavours to obtain such consent from the Lessor within the time stipulated for the delivery of the Evaluation in the Variation Notice. In the event that such consent is withheld by the Lessor, then the Operator shall immediately notify the Scottish Ministers and the Parties shall:

11.3.1 extend the date for the delivery of the Evaluation by agreement; and

11.3.2 enter into tripartite negotiations between the Lessor, the Scottish Ministers and the Operator in order to obtain the approval of the Lessor to the Evaluation

5 In clause 29.3 insert "29" after "this Clause" in line 1.

6 In clause 29.3 add "29.3.3 to the Lessor and to any lessor of the Vessels"

7 In clause 47.1 after "variation" in line 3 insert "(including, for the avoidance of doubt, a Variation Notice)".

- 8 In clause 52.4 insert "32" before "(Bribery and Corruption)" and insert "29" before "(Confidentiality)"
- 9 In Schedule 12 (Initial Base Case) delete the Base Case Schedule in its entirety and replace with the Base Case Financial Model annexed to this Minute of Variation.
- 10 In Schedule 13 (Grant Payment) in each of paragraphs 1.5.1 and 1.5.2, after "19" insert "41.1"