

**OPERATOR AGREEMENT**

**between**

**THE CONNAUGHT INCOME SCHEME SERIES 3 LP**

**and**

**CONNAUGHT ADMINISTRATION SERVICES LIMITED**

**and**

**DUNADD ASSET MANAGEMENT LIMITED**

## OPERATOR AGREEMENT

between

- 1 **THE CONNAUGHT INCOME SCHEME SERIES 3 LP**, a limited partnership registered in England under the Limited Partnerships Act 1907 (Registered Number: **LP14005**) and having its principal place of business at 26 New Street, Paisley, Renfrewshire, PA1 1YB (acting through the General Partner as hereinafter designed) (the "**Partnership**");
- 2 **CONNAUGHT ADMINISTRATION SERVICES LIMITED**, a company incorporated in England under the Companies Acts (Registered Number: 06081018) and having its Registered office at Hill Place House, 55a High Street, Wimbledon Village, SW19 5BA (the "**General Partner**"); and
- 3 **DUNADD ASSET MANAGEMENT LIMITED**, a company incorporated under the Companies Acts (Registered Number: SC283417) and having its Registered office at 26 New Street, Paisley PA1 1YB (the "**Operator**").

## WHEREAS

- 1 The Partnership is a limited partnership constituted under the Limited Partnerships Act 1907. The activities and operation of the Partnership are governed by the terms of the Limited Partnership Agreement (as hereinafter defined).
- 2 The Partnership constitutes an unregulated collective investment scheme for the purposes of Section 235 of FSMA (as hereinafter defined).
- 3 The General Partner is the general partner of the Partnership and has no power to operate the Partnership for the purposes of FSMA.
- 4 The Limited Partnership Agreement expressly authorises the General Partner on behalf of the Partnership to enter into this Agreement with the Operator and authorises the General Partner to represent the Partnership in its dealings with the Operator.
- 5 The Operator has agreed, on the terms and conditions of this Agreement, to act as the operator of the Partnership.
- 6 The Operator is authorised and regulated by the FSA (as hereinafter defined) (Registration Number 460783) and has the necessary permission under Part IV of FSMA to operate unregulated collective investment schemes.
- 7 The Operator is treating the Partnership as a Professional Client for the purposes of Chapter 3 of the Conduct of Business Rules forming part of the FSA Handbook.

NOW THEREFORE IT IS HEREBY AGREED as follows:-

1 **Definitions and Interpretation**

1.1 **Definitions.** Words and expressions not defined in this Agreement which are defined in the Limited Partnership Agreement shall (save where inconsistent with the terms of this Agreement) have the same respective meanings in this Agreement. In addition, the following terms and expressions shall have the meaning set out opposite the relevant word or expression:

"**Administration Agreement**" means an agreement dated 20 July 2010 between the Operator acting as agent for the Partnership and Primagatius Administration Limited as amended and restated from time to time

"**Asset Management Agreement**" means an agreement dated 20 July 2010 between the Operator and Connaught Asset Management Limited

"**Disposal**" means the completion of the sale of the whole or substantially the whole of the Partnership's interest in the Property or any other disposition of all or substantially all of the Partnership's interest in the Property whether through a merger, consolidation, change in ownership of the Partnership or otherwise;

"**FSA**" means the Financial Services Authority or its statutory successor;

"**FSMA**" means the Financial Services and Markets Act 2000 and the relevant rules contained in the FSA Handbook.

"**Limited Partnership Agreement**" means an agreement dated 20 July 2010 between Connaught Administration Services Limited and Connaught Asset Management Limited relative to the Partnership as amended and restated from time to time;

"**Partnership Bank Accounts**" means any account or accounts in the name of the Partnership opened by the Administrator;

"**Property**" means such land, buildings or other such properties that are purchased from time to time by the Partnership at any time during the term of the Partnership;

"**Schedule**" means the schedule in three parts annexed as relative hereto; and

"**Services**" means the responsibilities and duties of the Operator set out in the Part 1 of the Schedule (being a definitive list of the services covered by this Agreement) and "Service" means any one of them as the case may be.

1.2 **Interpretation.** In this Agreement, unless the context requires otherwise:

- 1.2.1 words and expressions which are defined in the Limited Partnership Agreement shall, unless the context requires otherwise, have the same respective meanings in this Agreement;
- 1.2.2 references to operating the Partnership or acting as operator of the Partnership include references to operating and administering the Partnership as required pursuant to FSMA;
- 1.2.3 references to the Partnership, unless the context otherwise requires, are to be read as references to the Partnership acting through the General Partner;
- 1.2.4 any reference to "persons" includes natural persons, firms, partnerships, companies, corporations, associations, organisations, governments, states, foundations and trusts (in each case whether or not having separate legal personality);
- 1.2.5 "this Agreement" or any other agreement or instrument is a reference to this Agreement or, as the case may be, the relevant agreement or instrument as amended, supplemented, replaced or novated from time to time and includes a reference to any document which amends, supplements, replaces, novates or is entered into, made or given pursuant to or in accordance with any of the terms of this Agreement or, as the case may be, the relevant deed, agreement or instrument;
- 1.2.6 the singular includes the plural and vice versa, reference to a gender include all genders, headings to clauses and schedules are for convenience only and shall not affect construction; and
- 1.2.7 any reference in this Agreement to any statute or statutes provision shall be construed as if it referred to that statute or provision as amended, re-enacted or extended.

## **2 Appointment and responsibilities of the Operator**

- 2.1 The Partnership, acting by the General Partner, hereby appoints the Operator to be the operator of the Partnership with effect from the date of this Agreement with full power and authority to act as operator of the Partnership and the Operator hereby agrees with the General Partner to act as operator of the Partnership and accordingly to provide to the Partnership the Services.
- 2.2 The Partnership, acting by the General Partner hereby appoints the Operator to be their agent to enter into the Administration Agreement and the Asset Management Agreement

2.3

2.4 **FSMA compliance**

2.4.1 It is acknowledged and agreed that the establishment, operation and winding-up of the Partnership must be and remain the responsibility of an authorised person for the purposes of FSMA including the performance of any duties and functions under the Limited Partnership Agreement which constitute Regulated Activities for the purposes of FSMA. Accordingly, it is agreed that the Operator shall have overall responsibility for the establishment, operation and winding-up of the Partnership (and shall retain such responsibility notwithstanding any delegation pursuant to clause 2.3 below) in accordance with and subject to the provisions of this Agreement.

2.5 In complying with its obligations under this Clause 2, the Operator shall be entitled (subject to the terms of this Agreement) to exercise all and any of the powers of management conferred on the General Partner by the Limited Partnership Agreement provided that it shall observe all conditions and qualifications attaching to those powers under the Limited Partnership Agreement.

2.6 Subject at all times to the overriding requirement that the Operator must have sufficient powers to ensure compliance with FSMA, and without imposing any obligations on the Operator additional to those contemplated by the Services, the Operator shall, in connection with the supply of the Services under this Agreement, comply with such reasonable orders and directions as may from time to time be given to it by the General Partner and with all applicable laws or regulations for the time being in force.

2.7 The Partnership shall be bound by all the acts of the Operator in exercising its rights and carrying out its functions and duties hereunder.

2.8 The Operator shall keep or cause to be kept by the General Partner on behalf of the Partnership such books, records and statements as may be necessary to give a complete record of all transactions carried out by the Operator on behalf of the Partnership and such other books, records and statements as may be required by law.

2.9 The Operator shall notify the General Partner promptly in the event that it becomes subject to an investigation or disciplinary proceedings by any regulatory body.

2.10 For the avoidance of doubt, the Operator shall not have the power to borrow on behalf of the Partnership.

2.11 Subject to the prior written consent of the Operator and the overriding requirement that the Operator must have sufficient powers and responsibilities to ensure compliance with FSMA, the General Partner may from time to time require that Part 1 of the Schedule is amended.

2.12 It is acknowledged that the Operator has no:

2.12.1 responsibility to the Partnership for the underlying investment decisions made by the Partnership and/or the General Partner;

2.12.2 responsibility to monitor compliance by the Partnership with the covenants and conditions contained in or arising under any loan, funding or finance agreements entered into by the Partnership or any nominee vehicle established by the Partnership. However, the latter does not mean that the Operator will be entitled to authorise the release of moneys from any Partnership Bank Account in a manner which is inconsistent with the terms of such loan, funding or finance agreement provided that the full details of such requirements have been provided to the Operator;

2.12.3 responsibility to act as custodian or depositary for any Partnership assets.

### 2.13 Delegation to General Partner

2.13.1 The Operator hereby delegates to the General Partner (which delegation the General Partner hereby accepts):

2.13.1.1 the power to appoint Connaught Asset Management Limited (or such other party as the General Partner may determine from time to time) as the asset manager of the Partnership;

2.13.1.2 subject to clause 2.11.2 below, the functions and duties referred to in Clause 5.5 of the Limited Partnership Agreement; and

2.13.1.3 all other functions and duties agreed to be carried out by the General Partner as set out in the Limited Partnership Agreement; and

the General Partner hereby undertakes to perform such functions and duties, as the delegate of the Operator, in accordance with the Limited Partnership Agreement and this Agreement.

### 2.14 Delegation by the Operator

2.14.1 The Operator shall use its reasonable endeavours to ensure that all duties and responsibilities delegated by it to third parties (other than the General Partner) are carried out to a proper and acceptable standard and with that degree of skill and care as could reasonably be expected of a person experienced and skilled in performing the relevant duties and obligations, and shall use its reasonable

endeavours to ensure that the duties and functions delegated to the General Partner in accordance with this Clause 2 are carried out in accordance with the Limited Partnership Agreement. It is agreed that the carrying out by the Operator of the procedures set out in this Agreement shall constitute reasonable endeavours for the purposes of this clause 2.11 in relation to duties and functions delegated to the General Partner.

### **3 Charges**

- 3.1 The General Partner shall on behalf of the Partnership pay to the Operator the charges for acting as operator of the Partnership and for the provision of the Services in accordance with the provisions of Part 2 of the Schedule.
- 3.2 All charges and other sums payable to the Operator under this Agreement are exclusive of any applicable value added tax, which shall be payable in addition to the charge or sum in question.
- 3.3 The General Partner shall pay all costs and expenses reasonably and properly incurred on behalf of or for the benefit of the Partnership by the Operator in the proper performance of its duties hereunder and insofar as any such costs and expenses are paid by the Operator out of its own resources, the Operator shall be reimbursed therefore by the General Partner.

### **4 General partner's obligations**

- 4.1 The General Partner acting on behalf of the Partnership shall respond promptly to any requests for guidance or information reasonably required by the Operator, to enable it to perform the Services under this Agreement.
- 4.2 The General Partner acting on behalf of the Partnership shall perform all the obligations which the Operator reasonably requires it to perform.
- 4.3 The General Partner shall use all reasonable care and skill in accordance with good industry practice in carrying out the powers delegated to it in terms of Clause 2.10 and in particular devote sufficient time to ensure that its obligations under this Agreement are fulfilled. If the General Partner shall fail to use such reasonable care and skill or shall otherwise be in breach of its obligations the Operator at its option be entitled to require the General Partner to carry out, as promptly as practicable, such repeat or remedial services as shall be appropriate to ensure that the relevant services are carried out (save only as to the time of their performance) as originally planned or, alternatively (and, subject to applicable law), to obtain the relevant service from a third party for so long as the General Partner shall be unable properly to provide that service.
- 4.4 The General Partner shall promptly notify any changes to the Limited Partnership Agreement to the Operator.

- 12.1.6.2 has a receiver or an administrative receiver appointed in respect of the whole or a substantial part of its undertaking or assets;
- 12.1.6.3 enters into any composition or arrangement for the benefit of or with its creditors; or
- 12.1.6.4 ceases or threatens to cease to carry on its business;
- 12.1.7 the resignation of the Operator on six months' prior written notice to the General Partner provided that the Operator shall be entitled to resign on one months' notice in the event of an alteration to the Limited Partnership Agreement which imposes materially greater obligations on the Operator; or
- 12.1.8 by mutual agreement between the General Partner and the Operator;

PROVIDED ALWAYS that no such termination shall take effect until the date at which a replacement operator is appointed which shall be authorised under FSMA (or any similar or successor body under FSMA or any equivalent legislation) to act as operator of the Partnership or if the General Partner shall itself be so authorised and permitted and shall have agreed to perform the duties performed by the Operator. In the event of such termination the General Partner undertakes to use all reasonable endeavours to procure the services of a replacement operator.

- 12.2 Upon termination of the appointment of the Operator under the provisions of this Clause 12 for any reason the Operator shall be entitled to receive all fees and other moneys accrued up to the date of such termination but shall not be entitled to compensation in respect of such termination.
- 12.3 On the date of termination of this Agreement (or as soon as reasonably practicable thereafter) the Operator shall deliver to the General Partner all originals and copies of all books of account, records, registers, correspondence, documents and assets relating to the affairs of or belonging to the Partnership which are in the possession of or under the control of the Operator and shall take all necessary steps to vest in the Partnership any assets previously held in the name of or to the order of the Operator on behalf of the Partnership and shall forthwith shall cease acting as Operator.
- 12.4 Termination of this Agreement (for whatever cause) shall be without prejudice to transactions already initiated and transactions in progress shall be completed directly between the General Partner (acting on behalf of the Partnership) and the counterparty.

### 13 Other advisors

The Operator may, where reasonably required for the performance of its duties hereunder, obtain (at the expense of the Partnership, subject to the prior written agreement of the General Partner to such

- 10.2 The General Partner acknowledges that the Financial Services Compensation Scheme may not be applicable in respect of the activities contemplated by this Agreement.

## 11 Force majeure

- 11.1 Notwithstanding any other provision of this Agreement, neither party shall be deemed to be in breach of this Agreement, or otherwise be liable to the other for any delay in performance or other non-performance of any of its obligations under this Agreement to the extent that the delay or non-performance is due to any cause beyond its reasonable control of which it has notified the other party, and the time for performance of that obligation shall be extended accordingly.
- 11.2 Clause 11.1 above shall not have effect to exonerate any party from making payments under this Agreement or to permit delay in the making of any such payment.

## 12 Termination

- 12.1 This Agreement shall terminate forthwith in the following circumstances:
- 12.1.1 the Operator ceasing to be authorised under FSMA; or
  - 12.1.2 the termination of the Partnership; or
  - 12.1.3 the General Partner providing the Operator with six months' prior written notice of the termination of the Operator's appointment as the operator of the Partnership; or
  - 12.1.4 in the event of a material default of the General Partner in respect of its obligations under this Agreement which (only if capable of remedy) is not remedied within 30 Business Days of notice served by the Operator regarding such remedy; or
  - 12.1.5 in the event of a material default of or continuing breach by the Operator in respect of its obligations under this Agreement which (only if capable of remedy) is not remedied to the General Partner's reasonable satisfaction within 30 Business Days of notice served by the General Partner regarding such remedy; or
  - 12.1.6 if either party:
    - 12.1.6.1 goes into liquidation either compulsorily or voluntarily (save for the purposes of solvent reconstruction or amalgamation upon terms previously approved in writing by the other party) or is the subject of an administration order or is dissolved or otherwise ceases to exist; or is the subject of an interim order under the Insolvency Act 1986;

4.5 The General Partner shall not accept any applications for an Interest in the Partnership until it has satisfied the Operator that appropriate procedures are in place to reasonably ensure that:

4.5.1 only applications from eligible investors will be accepted and that such applications will comply with FSMA; and

4.5.2 all appropriate anti money laundering checks have been completed.

Notwithstanding any other provision in this Agreement or elsewhere the Operator will be entitled at all times to instruct the General Partner not to accept any application for an Interest in the Partnership or otherwise accept the admission of any Limited Partner if the Operator does not consider that the terms of this clause 4.5 have been satisfied.

4.6 The Operator agrees with the Partnership throughout the term of this Agreement:

4.6.1 to carry out the Services in the best interests of the Partnership;

4.6.2 in all matters to act lawfully and in good faith towards the Partnership;

4.6.3 to work and co-operate with any consultants or professionals appointed by or on behalf of the Partnership;

4.6.4 not to make any profit or commission out of the management of the Partnership or the Partnership assets other than its fees payable as provided under this Agreement without the prior written consent of the General Partner;

4.6.5 to ensure that the Partnership has a principal place of business in Scotland.

4.7 **Continuing compliance with FSMA**

4.7.1 In the event that the Operator notifies the General Partner that, in the reasonable opinion of the Operator, the continuing operation of the Partnership in accordance with this Agreement or the Limited Partnership Agreement constitutes or could potentially constitute a breach of the rules of the FSA or FSMA, the Operator and the General Partner shall, forthwith following such notification, negotiate and seek to agree (as soon as reasonably practicable) such amendments to this Agreement and the Limited Partnership Agreement as are necessary to ensure that the continuing operation of the Partnership complies with the rules of the FSA and FSMA. Subject to the prior approval of the General Partner, all legal fees properly and reasonably incurred by the Operator and payable by it to its external legal advisers in respect of any such negotiation shall be borne by the Partnership.

4.8 **General Partner undertakings**

4.8.1 The General Partner undertakes to the Operator that it shall:

