

Particulars of Sale

Lot 1 24.12 acres of freehold land at Lower Ailey Kinnersley Herefordshire shown edged in red on the attached plan being part of registered title number HE7812

SPECIAL CONDITIONS OF SALE

Agreed terms

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions

1.1 Definitions:

Basic Payment Scheme: the basic payment scheme established by Regulation (EU) No 1307/2013 and any similar replacement scheme and any similar additional scheme, whether resulting from CAP Reform or otherwise, and including any similar or analogous scheme established under domestic legislation whether established as a result of the exit of the United Kingdom from the European Union or otherwise.

Buyer's Conveyancer: the person or firm named in the Tender Form submitted by the Buyer as the person or firm to whom evidence of title should be sent in the event of the tender being successful

CAP: Common Agricultural Policy.

CAP Reform: the implementation of the agreement on the reform of the CAP under Regulations (EU) 1305/2013, 1306/2013, 1307/2013 and 1308/2013 of the European Parliament and of the Council and any similar replacement or additional legislative instruments and all associated delegated and implementing acts, and all legislation, guidance and codes of practice made from time to time under them by the UK government or any devolved authority applicable to the Property, in each case as amended, extended or re-enacted from time to time.

Completion: the actual completion of the sale and purchase agreed in the contract for sale pursuant to the annexed Conditions of Tender

Completion Date:

Conditions of Tender: the annexed Conditions of Tender

these Conditions: means these special conditions of sale as varied by any subsequent documentation

Contract Rate: interest at 4% per annum above the base rate from time to time of Barclays Bank plc

Cross Compliance Conditions: the statutory management requirements and the standards for good agricultural and environmental condition of land listed in Regulation (EU) 1306/2013 and all associated delegated and implementing acts and laws and all subordinate legislation, guidance and codes of practice made from time to time under them and any similar replacement or similar additional conditions, requirements and standards and all legislation, guidance and codes of practice made from time to time under them by the UK government or any devolved authority applicable to the Holding, in each case as amended, extended or re-enacted from time to time that must be complied with.

Deposit: means the sum payable under condition 5.1 of the Conditions of Tender

Electronic Payment: payment by electronic means in same day cleared funds from an account held in the name of the Buyer's Conveyancer at a clearing bank to an account in the name of the Seller's Conveyancer.

Entitlements: entitlements for subsidy payment under the Basic Payment Scheme and any similar replacement entitlements whether resulting from CAP Reform or otherwise, and including any replacement entitlements established under domestic legislation.

Expert: has the meaning given in clause 17

Freehold title: means registered title number HE7812

Holdover Period: the period of time defined in clause 15.

Incumbrance: any mortgage, charge (fixed or floating), pledge, lien, guarantee, trust, right of set-off or other third party right or interest (legal or equitable) including any assignment by way of security, reservation of title or other security interest of any kind, however created or arising, or any other agreement or arrangement (including a sale and repurchase agreement) having similar effect.

Lease: means the Lease of part of the Property dated 2nd February 2016 between the Seller (1) and Lower Ailey Biogas Ltd (2)

Leasehold title: means registered title number HE55019

Letter of Acceptance: means the letter of acceptance annexed to the Conditions of Tender

Part 1 Conditions: the conditions in Part 1 of the Standard Commercial Property Conditions (Third Edition) and **Condition** means any one of them.

Part 2 Conditions: the conditions in Part 2 of the Standard Commercial Property Conditions (Third Edition).

Plan: the plan attached to this contract.

Plant Equipment and Machinery: the plant equipment and machinery listed in Schedule 1

Power: means the Power of Attorney dated 30th October 2015.

Property: has the meaning given in condition 3.6 of the attached Conditions of Tender and is more fully described as 24.12 acres or thereabouts of freehold land at Lower Ailey Kinnersley Herefordshire shown edged red on the attached plan and being part of the land registered at HM Land Registry with title absolute title under title number HE7812

Purchase Price: means the purchase price specified by the Buyer in his Tender form and also specified in the Letter of Acceptance

RICS: Royal Institution of Chartered Surveyors.

Seller's Agent: the person or firm so described in condition 2.1 of the Conditions of Tender

Seller's Conveyancer: the person or firm so described in condition 1.1 of the Conditions of Tender

Tender Form: means the tender form annexed to the Conditions of Tender

VAT: value added tax chargeable in the UK

Written replies: are

- a) written replies that the Seller's Conveyancer has given prior to the date of this contract to any written enquiries raised by the Buyer's Conveyancer; or
- b) written replies to written enquiries given prior to the date of this contract by the Seller's Conveyancer to the Buyer's Conveyancer.

- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under them and all orders, notices, codes of practice and guidance made under them.
- 1.4 A reference to laws in general is a reference to all local, national and directly applicable supra-national laws as amended, extended or re-enacted from time to time and shall include all subordinate laws made from time to time under them and all orders, notices, codes of practice and guidance made under them.
- 1.5 A reference to **writing** or **written** includes fax but not email
- 1.6 Unless the context otherwise requires, references to clauses schedules and paragraphs are to the clauses schedules and paragraphs of these Conditions

- 1.7 Clause schedule and paragraph headings shall not affect the interpretation of this contract.
- 1.8 The schedule(s) form part of this contract and shall have effect as if set out in full on the body of this contract. Any reference to this contract includes the schedule(s)
- 1.9 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.10 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.11 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

2. INCORPORATION OF CONDITIONS OF TENDER

- 2.1 The annexed Conditions of Tender are incorporated in these Conditions as though repeated at length in these Conditions
- 2.2 If there shall be any conflict between the Conditions of Tender and these Conditions these Conditions shall prevail

3. Sale and purchase

- 3.1 The Seller will sell and the Buyer will buy the Property and the Plant Equipment and machinery for the Purchase Price specified by the Buyer in his Tender Form and also in the Letter of Acceptance on the terms of this contract.
- 3.2 The Purchase Price shall be apportioned:
- (a) as to the Property the sum of £
 - (b) as to the Plant Equipment and Machinery the sum of £100,000.00 (one hundred thousand pounds)
- 3.3 The Seller warrants that, as regards the Plant Equipment and Machinery:
- (a) the Seller has good and marketable title to each of them; and
 - (b) each of them is legally and beneficially owned by the Seller.

- 3.4 On completion the Buyer shall in addition to the Purchase Price reimburse to the Seller the sum of £137.50 being a contribution towards the costs incurred by the Seller in providing pre-contract searches
- 3.5 The Lease is to be surrendered to the Seller prior to Completion and the Leasehold Title will merge in the Freehold Title
- 3.6 Crops growing on the Property at the time of completion are not included in the sale.
- 3.7 The Buyer cannot require the Seller to:
- (a) transfer the Property or any part of it to any person other than the Buyer;
 - (b) transfer the Property in more than one parcel or by more than one transfer; or
 - (c) apportion the Purchase Price between different parts of the Property.

4. Conditions

- 4.1 The Part 1 Conditions are incorporated in this contract so far as they:
- (a) apply to a sale by private treaty;
 - (b) relate to freehold property;
 - (c) are not inconsistent with the other clauses in this contract and
 - (d) have not been modified or excluded by any of the other clauses in this contract.
- 4.2 The terms used in these Conditions have the same meaning when used in the Part 1 Conditions.
- 4.3 The following Conditions are amended:
- (a) Condition 1.1.1(d) is amended so that reference to the completion date in Condition 1.1.1(d) refers instead to the Completion Date as defined in these Conditions
 - (b) Condition 1.1.1(e) is amended so that reference to the contract rate in Condition 1.1.1(e) refers instead to the Contract Rate as defined in these Conditions
 - (c) Condition 1.1.1(o) is amended so that reference to VAT in Condition 1.1.1(o) refers instead to VAT as defined in these Conditions
 - (d) Condition 7.6.3 is amended so that reference to "Condition 4.1.2" is reference to "Clause 4.1.2".
- 4.4 Condition 1.1.4(a) does not apply to this contract.

4.5 Condition 9.2.1 does not apply to this contract.

4.6 The Part 2 Conditions are not incorporated into this contract.

5. Risk and insurance

5.1 With effect from exchange of this **contract**, the Property is at the Buyer's risk and the Seller is under no obligation to the Buyer to insure the Property.

5.2 No damage to or destruction of the Property nor any deterioration in its condition, however caused, will entitle the Buyer either to any reduction of the Purchase Price or to refuse to complete or to delay completion.

5.3 Conditions 8.2.2, 8.2.3 and 8.2.4(b) do not apply to this **contract**.

6. Deposit

6.1 the Deposit will be held by the Seller's Conveyancer as stakeholder on terms that on completion the Deposit is paid to the Seller with accrued interest.

6.2 Conditions 3.2.1, 3.2.2 and 9.8.3 do not apply to this **contract**.

7. Deducing title

7.1 The Seller's title to the Property has been deduced to the Buyer's Conveyancer before the date of this **contract**.

7.2 The Buyer is deemed to have full knowledge of the title and is not entitled to raise any objection, enquiry or requisition in relation to it.

7.3 Conditions 7.1, 7.2, 7.3.1 and 7.4.2 do not apply to this **contract**.

8. Vacant possession

8.1 The Property will be sold with vacant possession on completion subject only to the provisions with regard to holdover in clause 15 of these Conditions

9. Title guarantee

9.1 The Seller will transfer the Property with full title guarantee

9.2 The implied covenants for title are modified so that:

- (a) the covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to costs arising from the Buyer's failure to:

- (i) make proper searches; or
 - (ii) raise requisitions on title or on the results of the Buyer's searches
- (b) the covenant set out in section 3 of the Law of Property (Miscellaneous Provisions) Act 1994 will extend only to charges or Incumbrances created by the Seller.

9.3 Condition 7.6.2 does not apply to this **contract**.

10. Matters affecting the Property

10.1 The Seller will sell the Property free from Incumbrances other than:

- (a) any matters, other than the Charges, contained or referred to in the entries or records made in registers maintained by HM Land Registry as at 18 June 2020 timed at 10:02:55
- (b) any matters discoverable by inspection of the Property before the date of this **contract**;
- (c) any matters which the Seller does not and could not reasonably know about;
- (d) any matters, other than the Charges, disclosed or which would have been disclosed by the searches and enquiries which a prudent buyer would have made before entering into this contract;
- (e) public requirements;
- (f) any matters which are unregistered interests which override registered dispositions under Schedule 3 to the Land Registration Act 2002; and
- (g) all easements quasi easements rights exceptions or other similar matters including rights of way drainage water watercourses light rights of adjoining owners affecting the Property and other like matters whether or not apparent on inspection or disclosed in any of the documents referred to in this agreement and without any obligation on the Seller to provide evidence of their creation

10.2 Conditions 4.1.1, 4.1.2 and 4.1.3 do not apply to this **contract**.

10.3 The Buyer is deemed to have full knowledge of the matters referred to in clause 10.1 and will not raise any enquiry, objection, requisition or claim in respect of any of them.

11. Transfer

11.1 The transfer to the Buyer will be in the agreed form annexed to this **contract**

11.2 The Buyer and the Seller will execute the transfer in duplicate

12. VAT

- 12.1 Each amount stated to be payable by the Buyer to the Seller under or pursuant to this **contract** is exclusive of VAT (if any).
- 12.2 If any VAT is chargeable on any supply made by the Seller under or pursuant to this **contract**, the Buyer will on receipt of a valid VAT invoice, pay the Seller an amount equal to that VAT as additional consideration on completion.

13. Completion

- 13.1 Completion will take place on the Completion Date.
- 13.2 Condition 9.1.1 does not apply to this **contract**.
- 13.3 Conditions 9.1.2 and 9.1.3 are varied by the deletion of 2.00 pm as the stipulated time and the substitution of 1.00 pm.
- 13.4 Condition 9.7 is amended to read: "The buyer is to pay the money due on completion by Electronic Payment and, if appropriate, by an unconditional release of a deposit held by a stakeholder".

14. Buyer's acknowledgement of condition

The Buyer acknowledges that before the date of this **contract**, the Seller has given the Buyer and others authorised by the Buyer, permission and the opportunity to inspect, survey and carry out investigations as to the condition of the Property. The Buyer has formed the Buyer's own view as to the condition of the Property and the suitability of the Property for the Buyer's purposes.

15. Holdover

- 15.1 The **Holdover Period** means the period from and including the date of Completion to and including 31st October 2020 or the earlier date that the Seller removes the item from the Property.
- 15.2 The **Growing Crops** means the unharvested arable crops growing on the Property at Completion. The Growing Crops are reserved to the Seller and are excluded from the sale.
- 15.3 The Seller, and all persons authorised by the Seller and reasonably required by the Seller to exercise the rights in this clause, shall have the following rights during the Holdover Period:
- (a) the right to retain and harvest the Growing Crops;

- (b) the right to enter onto the Property with or without vehicles, plant and machinery for the purposes referred to in this clause.

15.4 The exercise of the rights listed in clause 15.3 are subject to the Seller causing as little damage as practicable to the Property

16. Basic Payment Scheme

16.1 No Entitlements are included in the sale of the Property to the Buyer.

16.2 The Seller is entitled to the Basic Payment Scheme payment for the claim year in which Completion takes place, and

- (a) the Buyer warrants that the Buyer will observe and comply with the Cross Compliance Conditions, the requirements for full payment under the Basic Payment Scheme and any other conditions imposed on the Seller by CAP Reform or otherwise from completion until midnight on 31 December next following completion; and
- (b) The Buyer shall indemnify the Seller against all expenses, costs and losses suffered or incurred by the Seller by reason of the Buyer or the Buyer's employees, agents or contractors breaching the warranty in clause 15.2(a), including but not limited to all loss of payment under the Basic Payment Scheme.

16.3 Any dispute arising out of or in connection with this clause shall be referred to and finally resolved by expert determination in accordance with clause 17

17. Expert determination

17.1 An **Expert** is a person appointed in accordance with this clause to resolve a dispute that arises out of or in connection with clause 16 of these Conditions. . Where the dispute relates to accounting, the matter shall be determined by an independent chartered accountant with relevant experience and any other matter shall be determined by an independent surveyor with relevant experience.

17.2 The Seller and the Buyer shall agree on the appointment of the Expert and shall agree with the Expert the terms of the Expert's appointment.

17.3 If the Seller and the Buyer are unable to agree on an Expert or the terms of the Expert's appointment within seven days of either party serving details of a suggested expert on the other, either party shall then be entitled to request the President for the time being of the RICS or the Institute of Chartered Accountants in England and Wales (as the case may be depending on the nature of the

dispute) (**President**) to appoint the Expert and to agree with the Expert the terms of the Expert's appointment.

- 17.4 The Expert is required to prepare a written decision and give notice (including a copy) of the decision to the Seller and the Buyer within a maximum of three months of the matter being referred to the Expert.
- 17.5 If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by this clause then:
- (a) either the Seller or the Buyer may apply to the President to discharge the Expert and to appoint a replacement Expert; and
 - (b) this clause shall apply to the new Expert as if they were the first Expert appointed.
- 17.6 The Seller and the Buyer are each entitled to make submissions to the Expert including oral submissions and will provide (or procure that others provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.
- 17.7 The Seller and the Buyer shall with reasonable promptness supply each other with all information and give each other access to all documentation and personnel and/or things as they may each reasonably require to make a submission under this clause.
- 17.8 The Expert shall act as an expert and not as an arbitrator. The Expert shall determine the dispute, which may include any issue involving the interpretation of any provisions of this contract, the Expert's jurisdiction to determine the matters and issues referred to the Expert and/or the Expert's terms of reference. The Expert's written decision on the matters referred to the Expert shall be final and binding on the parties in the absence of manifest error or fraud.
- 17.9 The Seller and the Buyer shall each bear their own costs in relation to the reference to the Expert. The Expert's fees and any costs properly incurred by the Expert in arriving at a determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the Seller and the Buyer equally or in such other proportions as the Expert shall direct.
- 17.10 All matters concerning the process and result of the determination by the Expert shall be kept confidential among the parties and the Expert.

17.11 Each party shall each act reasonably and co-operate to give effect to the provisions of this clause and otherwise do nothing to hinder or prevent the Expert from reaching a determination.

18. Entire agreement

18.1 These Conditions and the documents annexed to them constitute the whole agreement between the parties

18.2 The Buyer acknowledges and agrees that in entering into this **contract** and any documents annexed to it the Buyer does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) and whether by the Seller, the Seller's Conveyancer, the Seller's Agent or otherwise other than those:

- (a) set out in these Conditions or the documents annexed to them; or
- (b) contained in any Written Replies.

18.3 Nothing in this clause shall limit or exclude any liability for fraud.

19. Joint and several liability

19.1 Where the Buyer comprises more than one person, those persons will be jointly and severally liable for the Buyer's obligations and liabilities arising under this contract. The Seller may take action against, or release or compromise the liability of, or grant time or other indulgence to, any one of those persons without affecting the liability of any other of them.

20. Notices

20.1 Any notice given under this contract must be in writing

20.2 Any notice or document to be given or delivered under this contract must be:

- (a) delivered by hand; or
- (b) sent by pre-paid first class post or other next working day delivery service; or
- (c) sent by fax.

20.3 Any notice or document to be given or delivered under this contract must be sent to the relevant party as follows:

- (a) to the Seller at the Seller's Conveyancer, quoting reference CMT/618030/14
- (b) to the Buyer at the Buyer's Conveyancer, quoting the reference

20.4 Giving or delivering a notice or a document to a party's conveyancer has the same effect as giving or delivering it to that party.

20.5 Any such notice or document will be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice or document is left at the address provided that if delivery occurs before 9.00 am on a working day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a working day, or on a day which is not a working day, the notice will be deemed to have been received at 9.00 am on the next working day; or
- (b) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second working day after posting; or
- (c) if sent by fax, at the time of transmission provided that if transmission occurs before 9.00 am on a working day, the notice or document will be deemed to have been received at 9.00 am on that day, and if transmission occurs after 5.00 pm on a working day, or on a day which is not a working day, the notice will be deemed to have been received at 9.00 am on the next working day.

20.6 In proving delivery of a notice or document, it will be sufficient to prove that:

- (a) a delivery receipt was signed or that the notice or document was left at the address; or
- (b) the envelope containing the notice or document was properly addressed and posted by pre-paid first class post or other next working day delivery service; or
- (c) the fax was properly addressed and transmitted

20.7 A notice or document given or delivered under this **contract** shall not be validly given or delivered if sent by email.

20.8 Condition 1.3 does not apply to this **contract**.

20.9 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

21. Third party rights

21.1 A person who is not a party to this contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this contract.

22. Governing law

This contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

23. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this contract or its subject matter or formation (including non-contractual disputes or claims)

24. Sale by Attorney

Gwendoline Margaret Thomas (Mrs Thomas) is selling by her Attorney, Clive Dennis Thomas who confirms:

- 24.1 Mrs Thomas has a beneficial interest in the Property;
- 24.2 A statement to that effect will be included in the Transfer or in a statement signed by the Attorney to be handed to the Buyer on Completion; and
- 24.3 The Power is valid and subsisting and has not been revoked; and
- 24.4 A certified copy of the Power will be supplied to the Buyer on or before Completion.

SCHEDULE

Plant, Equipment and Machinery

2 x CHP Units (one currently located at the Farm)

Power plant – water purification

Dryer Unit

Separator and Stand

Container housing the Biogas Boiler – and Boiler

Intake Hopper

Water Tank

Concrete blocks for bund

Contents of the containers with the CHP Units and Engines

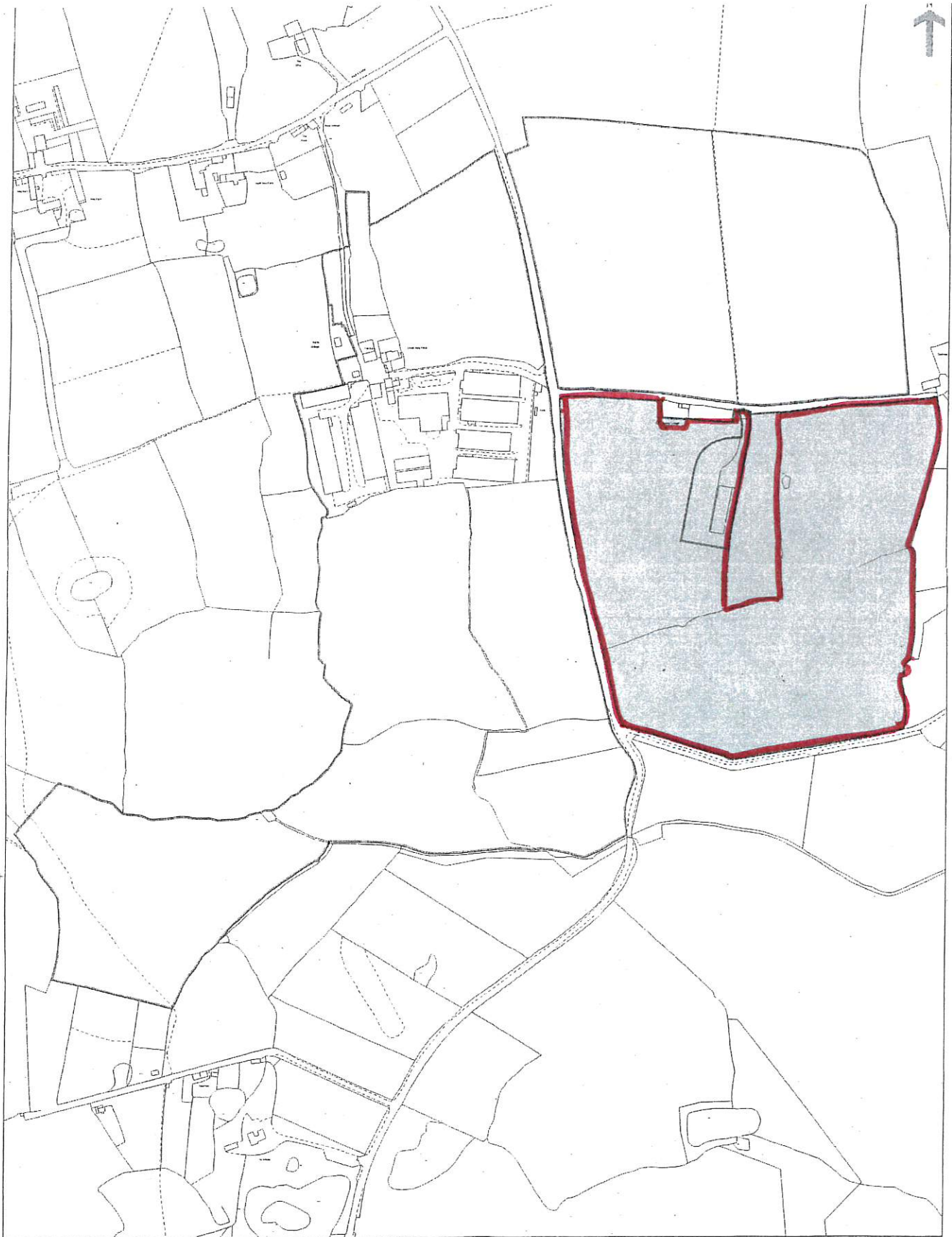
Signed by

For and on behalf of the Seller

Signed by

For and on behalf of the Buyer

Lot 1



This official copy issued on 4 June 2020 shows the state of this title plan on 4 June 2020 at 13:17:25.
It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).

This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.
This title is dealt with by HM Land Registry, Durham Office.

