

## **TERMS AND CONDITIONS OF THE BONDS**

**THIS DOCUMENT IS NOT AN OFFER TO SELL SECURITIES OR THE SOLICITATION OF ANY OFFER TO BUY SECURITIES.**

**SOLELY FOR THE PURPOSES OF THE PRODUCT GOVERNANCE REQUIREMENTS CONTAINED WITHIN: (A) EU DIRECTIVE 2014/65/EU ON MARKETS IN FINANCIAL INSTRUMENTS, AS AMENDED (“MIFID II”); (B) ARTICLES 9 AND 10 OF COMMISSION DELEGATED DIRECTIVE (EU) 2017/593 SUPPLEMENTING MIFID II; AND (C) LOCAL IMPLEMENTING MEASURES (TOGETHER, THE “MIFID II PRODUCT GOVERNANCE REQUIREMENTS”), AND DISCLAIMING ALL AND ANY LIABILITY, WHETHER ARISING IN TORT, CONTRACT OR OTHERWISE, WHICH ANY “MANUFACTURER” (FOR THE PURPOSES OF THE MIFID II PRODUCT GOVERNANCE REQUIREMENTS) MAY OTHERWISE HAVE WITH RESPECT THERETO, THE BONDS HAVE BEEN SUBJECT TO A PRODUCT APPROVAL PROCESS, WHICH HAS DETERMINED THAT: (I) THE TARGET MARKET FOR THE BONDS IS ELIGIBLE COUNTERPARTIES AND PROFESSIONAL CLIENTS ONLY, EACH AS DEFINED IN MIFID II; AND (II) ALL CHANNELS FOR DISTRIBUTION OF THE BONDS TO ELIGIBLE COUNTERPARTIES AND PROFESSIONAL CLIENTS ARE APPROPRIATE. ANY PERSON SUBSEQUENTLY OFFERING, SELLING OR RECOMMENDING THE BONDS (A “DISTRIBUTOR”) SHOULD TAKE INTO CONSIDERATION EACH MANUFACTURER’S TARGET MARKET ASSESSMENT; HOWEVER, A DISTRIBUTOR SUBJECT TO MIFID II IS RESPONSIBLE FOR UNDERTAKING ITS OWN TARGET MARKET ASSESSMENT IN RESPECT OF THE BONDS (BY EITHER ADOPTING OR REFINING EACH MANUFACTURER’S TARGET MARKET ASSESSMENT) AND DETERMINING APPROPRIATE DISTRIBUTION CHANNELS.**

**THE TARGET MARKET ASSESSMENT IS WITHOUT PREJUDICE TO THE REQUIREMENTS OF ANY CONTRACTUAL OR LEGAL SELLING RESTRICTIONS IN RELATION TO THE BONDS.**

**FOR THE AVOIDANCE OF DOUBT, THE TARGET MARKET ASSESSMENT DOES NOT CONSTITUTE: (A) AN ASSESSMENT OF SUITABILITY OR APPROPRIATENESS FOR THE PURPOSES OF MIFID II; OR (B) A RECOMMENDATION TO ANY INVESTOR OR GROUP OF INVESTORS TO INVEST IN, OR PURCHASE, OR TAKE ANY OTHER ACTION WHATSOEVER WITH RESPECT TO THE BONDS.**

**THE BONDS ARE NOT INTENDED TO BE OFFERED, SOLD OR OTHERWISE MADE AVAILABLE TO AND SHOULD NOT BE OFFERED, SOLD OR OTHERWISE MADE AVAILABLE TO ANY RETAIL INVESTOR IN THE EUROPEAN ECONOMIC AREA (“EEA”) OR THE UNITED KINGDOM. FOR THESE PURPOSES, A RETAIL INVESTOR MEANS A PERSON WHO IS ONE (OR MORE) OF: (I) A RETAIL CLIENT AS DEFINED IN POINT (11) OF ARTICLE 4(1) OF MIFID II; OR (II) A CUSTOMER WITHIN THE MEANING OF DIRECTIVE (EU) 2016/97, WHERE THAT CUSTOMER WOULD NOT QUALIFY AS A PROFESSIONAL CLIENT AS DEFINED IN POINT (10) OF ARTICLE 4(1) OF MIFID II. CONSEQUENTLY, NO KEY INFORMATION DOCUMENT REQUIRED BY REGULATION (EU) NO 1286/2014, AS AMENDED (THE “PRIIPS REGULATION”) FOR OFFERING OR SELLING THE BONDS OR OTHERWISE MAKING THEM AVAILABLE TO RETAIL INVESTORS IN THE EEA OR THE UNITED KINGDOM HAS BEEN PREPARED AND THEREFORE OFFERING OR SELLING THE BONDS OR OTHERWISE**

**MAKING THEM AVAILABLE TO ANY RETAIL INVESTOR IN THE EEA OR THE UNITED KINGDOM MAY BE UNLAWFUL UNDER THE PRIIPS REGULATION.**

*The following, other than the paragraphs in italics, are the terms and conditions of the Bonds, substantially as they will appear on the reverse of the Bonds in definitive form (if issued):*

The issue of the £275,000,000 2.00 per cent. Secured Exchangeable Bonds due 2026 (the “**Bonds**” which expression shall, unless otherwise indicated, include any Further Bonds (as defined below)) of Capital & Counties Properties PLC (the “**Issuer**”) was (save in respect of any Further Bonds) authorised by a resolution of a meeting of the Board of Directors of the Issuer passed on 9 November 2020 and a written resolution of the Board of Directors of the Issuer passed on 13 November 2020. The Bonds are constituted by a trust deed (as modified and/or restated from time to time in accordance with its terms) (the “**Trust Deed**”) dated 30 November 2020 and made between the Issuer and BNY Mellon Corporate Trustee Services Limited (the “**Trustee**”, which term shall, where the context so permits, include all other persons for the time being appointed as the trustee or trustees under the Trust Deed) as trustee for the Bondholders. The Issuer has entered into a paying, transfer and exchange agency agreement (the “**Agency Agreement**”) with the Trustee, The Bank of New York Mellon SA/NV, Luxembourg Branch as registrar and The Bank of New York Mellon, London Branch as principal paying, transfer and exchange agent. The registrar, the principal paying, transfer and exchange agent and the other paying, transfer and exchange agents for the time being are referred to below, respectively, as the “**Registrar**”, the “**Principal Paying, Transfer and Exchange Agent**” and the “**Paying, Transfer and Exchange Agents**” (which expression shall include the Principal Paying, Transfer and Exchange Agent).

The Issuer has also entered into a calculation agency agreement (the “**Calculation Agency Agreement**”) dated 30 November 2020 with Conv-Ex Advisors Limited (the “**Calculation Agent**”, which expression shall include any successor as calculation agent under the Calculation Agency Agreement) pursuant to which the Calculation Agent has been appointed to make certain calculations and determinations in relation to the Bonds.

The statements in these terms and conditions of the Bonds (the “**Conditions**”) include summaries of, and are subject to, the detailed provisions of the Trust Deed, which includes the forms of the Bonds. Copies of the Trust Deed, the Agency Agreement, the Calculation Agency Agreement, the Security Agreements (as defined below) and the Custody Agreements (as defined below) are available for inspection by Bondholders by prior appointment during its normal business hours at the registered office of the Trustee being at the Closing Date (as defined below) at One Canada Square, London E14 5AL, United Kingdom and at the specified office(s) of the Paying, Transfer and Exchange Agents and, at the discretion of the Principal Paying, Transfer and Conversion Agent, by electronic means upon email request to [corpsov4@bnymellon.com](mailto:corpsov4@bnymellon.com).

The Bondholders are entitled to the benefit of the Trust Deed and the Security Agreements and are bound by, and are deemed to have notice of, all the provisions of the Trust Deed and the Security Agreements and, in respect of the Agency Agreement and the Calculation Agency Agreement, those applicable to them.

Capitalised terms used but not defined in these Conditions shall have the meanings attributable to them in the Trust Deed unless the context otherwise requires or unless otherwise stated.

**1 Form, Denomination, Title and Status**

*(a) Form and Denomination*

The Bonds are in registered form in the principal amount of £100,000 each (the “**Authorised Denomination**”). The Bonds are represented by registered certificates (“**Certificates**”) and each Certificate shall represent the entire holding of Bonds by the same holder.

**(b) Title**

Title to the Bonds passes by transfer and registration as described in Condition 4. The holder (as defined below) of any Bond will (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest in it, or theft or loss of it or that of the related certificate, as applicable, or anything written on it or the Certificate representing it (other than a duly executed transfer thereof)) and no person will be liable for so treating the holder.

**(c) Status**

The Bonds constitute direct, unconditional and unsubordinated obligations of the Issuer ranking *pari passu* and rateably without any preference among themselves. The obligations of the Issuer under the Bonds are secured in the manner provided in Condition 2 and in the Security Agreements (as referred to and as defined in such Condition 2) and may be further secured as contemplated in Condition 3.

*The Bonds will on issue be represented by a global bond in registered form (the “**Global Bond**”), which will be registered in the name of the common depositary (or its nominee) for Euroclear Bank SA/NV (“**Euroclear**”) and Clearstream Banking S.A. (“**Clearstream, Luxembourg**”).*

*Interests of participants in Euroclear and Clearstream, Luxembourg in the Bonds will be represented by book entries in the records of Euroclear and Clearstream, Luxembourg.*

*Individual Bonds in respect of book-entry interests in any Bonds will not be issued in exchange for an interest in the Global Bond, except in the very limited circumstances described in the Global Bond.*

*Title to book-entry interests in the Bonds represented by the Global Bond will pass by book-entry registration of the transfer in the records of Euroclear or Clearstream, Luxembourg, as the case may be, in accordance with their respective procedures. Book-entry interests in the Bonds may be transferred within Euroclear and within Clearstream, Luxembourg and between Euroclear and Clearstream, Luxembourg in accordance with procedures established for these purposes by Euroclear and Clearstream, Luxembourg.*

## **2 Security Arrangements**

**(a) Security**

The obligations of the Issuer under the Bonds, the Trust Deed and the other Transaction Documents are secured in favour of the Trustee for the benefit of itself and the other Secured Parties:

- (i) by an assignment by way of security of all of each Chargor’s rights, title and interest from time to time in and to the relevant Custody Agreement and the relevant Custody Accounts; and
- (ii) by way of first fixed charge given by each Chargor in respect of:
  - (A) all of such Chargor’s rights, title and interest from time to time in and to the Pledged Property; and

- (B) to the extent not validly and effectively assigned as described in paragraph (i) above, all of such Chargor's rights, title and interest from time to time in and to the relevant Custody Agreement and the relevant Custody Accounts,

in each case pursuant to, and as more particularly described in, the security agreements dated 30 November 2020 between, respectively, each Chargor and the Trustee and any further security agreements entered into in accordance with Condition 2(b) or 2(g) (each a "**Security Agreement**" and together, the "**Security Agreements**").

The property specified in (i) and (ii) above, together with any other property or assets charged or pledged in favour of and/or assigned to the Trustee pursuant to the Security Agreements and the other Transaction Documents and/or any deed or document supplemental thereto is referred to in these Conditions as the "**Secured Property**", and the security created thereby is referred to as the "**Security**".

For the purposes of these Conditions:

"**Chargor**" means each of Capco Investment London (No.1) Limited and Capco Investment London (No.2) Limited, and which expression shall for the purposes of these Conditions include any successor, additional or replacement chargor(s) for the purposes of Conditions 2(g);

"**Custodian**" means HSBC Bank plc, which expression shall for the purposes of these Conditions include any successor, additional or replacement custodian(s) appointed by the Issuer or the Chargors pursuant to Condition 12(d);

"**Custody Accounts**" means the securities accounts containing, on the Closing Date, in aggregate the Initial Pledged Property (the "**Securities Accounts**") and cash accounts (the "**Cash Accounts**") in the name of each Chargor and held with the Custodian pursuant to, and in accordance with the terms of, the relevant Custody Agreement, and which expression shall for the purposes of these Conditions include any replacement or additional custody account(s) established by a Chargor pursuant to Conditions 2(g) and/or 12(d);

"**Custody Agreements**" means custody agreements dated 19 November 2020 between the Custodian and each Chargor and which expression shall for the purposes of these Conditions include any replacement or additional custody agreement(s) entered into by a Chargor pursuant to Conditions 2(g) and/or 12(d);

"**Initial Pledged Property**" means 38,239,588 fully paid Shaftesbury Shares comprised in the Exchange Property on the Closing Date; and

"**Pledged Property**" means the Initial Pledged Property and thereafter from time to time all property which is required to be pledged in favour of the Trustee for itself and the other Secured Parties pursuant to Condition 2(b) and the provisions of the Trust Deed.

**(b) Further Security**

Forthwith following any change in the composition of the Exchange Property and/or any other property that is the subject of the Security (other than the release of any Exchange Property and other cash or assets from the Security as provided in these Conditions or any of the Transaction Documents), the Issuer will procure that such further Shaftesbury Shares and/or other Relevant Securities and/or other property and/or assets (including cash amounts to be credited into the Cash Accounts pursuant to

Condition 2(c)(i)(B)) as may as a result be comprised in the Exchange Property are credited to the Securities Accounts or the Cash Accounts, as the case may be, and thereby made subject to the Security or that such other security interest is created in respect thereof, in each case in favour of the Trustee for the benefit of itself and the other Secured Parties as security for the obligations described in these Conditions and the Trust Deed.

**(c) Covenants**

- (i) So long as any Bond remains outstanding, save with the prior written consent of the Trustee or as approved by an Extraordinary Resolution of the Bondholders or as expressly contemplated or as otherwise may be permitted in any of the Transaction Documents:
  - (A) the Issuer will not and the Issuer will procure that each Chargor shall not:
    - (x) create or permit to subsist any mortgage, pledge, lien, security interest, charge or encumbrance or any arrangement having a like or similar effect upon all or any of the Secured Property; or
    - (y) transfer, sell, lend, part with or otherwise dispose of, or deal with, or grant any option or present or future right to acquire, any of the Secured Property (save where the same is effected pursuant to any Permitted Transfer Arrangements); or
    - (z) permit any of the Transaction Documents to be amended, terminated, postponed or discharged, or consent to any variation of, or exercise of any powers of consent or waiver pursuant to any of the Transaction Documents, or permit any party to any of the Transaction Documents or any other person whose obligations form part of the Security to be released from such obligations;
  - (B) the Issuer shall procure that all amounts received by each Chargor in respect of dividends and other cash distributions in respect of the Secured Property, or which are otherwise to be included in the Exchange Property, are credited to the relevant Cash Accounts;
  - (C) the Issuer shall procure that all securities received by each Chargor in respect of the Secured Property are credited to the relevant Securities Accounts; and
  - (D) the Issuer shall procure that, if any negative interest is to be applied by the Custodian in respect of any amounts attributable to the Exchange Property standing to the credit of the Cash Accounts pursuant to the Custody Agreements, an amount equal to such negative interest is paid directly to the Custodian or is otherwise credited to the relevant Cash Account.
- (ii) The Trustee shall only give its consent to any exception to the foregoing if it is satisfied that the interests of the Bondholders will not be materially prejudiced thereby. In giving any consent to any exception to the foregoing, the Trustee may require the Issuer and any one or more of the Chargors to make such modifications or additions to the provisions of the Bonds, the Trust Deed, the Security Agreements or any of the other Transaction Documents or may impose such other conditions or requirements as the Trustee may deem expedient (in its sole discretion) in the interests of the Bondholders.

**(d) Release of Secured Property**

The following may be released from the Security:

- (i) the Exchange Property per Bond (or, where applicable, the relevant proportion thereof) required to be delivered to a Bondholder on an exercise of Exchange Rights in respect of the Bonds;
- (ii) in the circumstances set out in Condition 8(e) where additional Shaftesbury Shares or Equity Share Capital are to be added to the Exchange Property, any cash amount or securities or other property in respect of which the Issuer has given a Purchase Election Notice pursuant to Condition 8(e);
- (iii) upon payment of the Cash Alternative Amount pursuant to these Conditions on the exercise of Exchange Rights, the Exchange Property per Bond (or, where applicable, the relevant proportion thereof) that, in the absence of the exercise of the Cash Election, would have been required to be delivered to the relevant Bondholder in respect of the relevant Bonds (all as determined by the Calculation Agent), which the Chargors shall be entitled to retain;
- (iv) if any Cash Dividend Shortfall shall occur in any Relevant Period, the Cash Dividend Shortfall Exchange Property Amount determined in accordance with the provisions of Condition 8(b)(iv);
- (v) any Cash Dividend (other than to the extent comprising a Capital Distribution) standing to the credit of the Cash Accounts;
- (vi) where Bonds are redeemed pursuant to Condition 11(a), 11(b), 11(c) or 11(d) or purchased and cancelled pursuant to Conditions 11(f) and (g), the Exchange Property per Bond in respect of such Bonds;
- (vii) Relevant Securities and/or any cash amount comprising Exchange Property for the purposes of taking up any rights (or otherwise permitted to be withdrawn from the Exchange Property in the circumstances provided in Condition 8(b)(ii)(b)(B)) pursuant to a Rights Issue, subject to and in accordance with Condition 8(b)(ii);
- (viii) Relevant Securities comprising Exchange Property required to be delivered upon acceptance of an Offer by the Issuer or the Chargors or by the way of compulsory acquisition of any Relevant Securities or in connection with or pursuant to a Scheme of Arrangement or which otherwise cease to be part of the Exchange Property pursuant to Condition 9(b), in each case pursuant to Condition 9, provided that there are arrangements in place at the time of such release for the grant of an effective first ranking security interest to the Trustee for the benefit of itself and the Bondholders over the relevant Consideration as security for the obligations described in these Conditions and the Transaction Documents;
- (ix) where a Relevant Company redeems or compulsorily acquires any Relevant Securities comprised in the Exchange Property, the Relevant Securities so redeemed or acquired, provided the redemption proceeds are included as part of the Exchange Property in accordance with Condition 8(b)(iii)(C);
- (x) where Condition 8(b)(ii)(a)(C) or Condition 8(b)(ii)(b)(C) applies, the Relevant Securities or other securities, or options, warrants or rights to subscribe or purchase further Relevant

Securities or other securities which are offered by way of rights to holders of Relevant Securities;

- (xi) for the purposes of paying the same to or to the order of the relevant Chargor, any interest accrued in respect of any amounts attributable to the Exchange Property standing to the credit of the Cash Accounts and credited to the Cash Accounts by the Custodian pursuant to the Custody Agreements;
- (xii) where all or part of the Exchange Property is to be transferred between then-existing Chargors pursuant to Condition 2(g), the relevant Exchange Property provided that it immediately becomes subject to the Security granted by the transferee Chargor;
- (xiii) where all or part of the Exchange Property is to be transferred from a then-existing Chargor to an additional or replacement Chargor pursuant to Condition 2(g), the relevant Exchange Property provided that upon receipt of such Exchange Property by the transferor Chargor such Exchange Property immediately becomes subject to Security on terms acceptable to the Trustee; and
- (xiv) where all or part of the Exchange Property is to be transferred by a Chargor into a replacement or additional Custody Account in the name of such Chargor pursuant to the addition or replacement of a Custodian in accordance with Condition 12(d), the relevant Exchange Property provided that (where such Custody Account into which the relevant Exchange Property is to be transferred is not then subject to the Security) upon the credit of such Exchange Property to the replacement or additional Custody Account such Exchange Property immediately becomes subject to Security on terms acceptable to the Trustee.

**(e) *Enforcement of Security***

The Security shall become enforceable:

- (i) on the eighth day following notice being given by the Trustee to the Issuer that the Bonds are due and payable pursuant to Condition 14; or
- (ii) on the eighth day following notice being given by the Trustee to the Issuer if the Issuer shall have failed to make payment of any amount due in respect of the redemption of the Bonds on any due date for redemption of all of the Bonds pursuant to these Conditions,

except where the Trustee or the Principal Paying, Transfer and Exchange Agent has received all sums due in respect of all the Bonds prior to the expiry of such notice.

If the Security becomes enforceable, the Trustee may at its discretion and without further notice or formality and shall, if so requested in writing by Bondholders holding at least one-quarter in principal amount of the Bonds then outstanding or if so directed by an Extraordinary Resolution (subject in each case to being indemnified and/or secured and/or prefunded to its satisfaction) enforce all or any of the Security subject as provided below. The Trustee shall act on the first such request or direction received pursuant to this Condition 3(e) (subject to it being indemnified and/or secured and/or prefunded to its satisfaction) and shall have no personal liability for doing so. To do this, the Trustee may at its discretion appoint a receiver and/or take possession of and/or realise all or any part of the Secured Property and/or take action or proceedings against any person liable in respect of all or any part of the Secured Property and/or any sums held by the Principal Paying, Transfer and Exchange Agent under or

pursuant to the Agency Agreement and/or any rights in relation to the Security Agreements and/or any rights in relation to the Custody Agreements and/or the Cash Accounts and/or the Securities Accounts and take any step, action or proceedings provided for in or pursuant, and/or in each case subject, to the Transaction Documents, but without any liability to any person as to the consequences of such step, action or proceedings and without having regard to the effect of such action or proceedings on the Issuer, any Chargor or individual Bondholders, and provided that:

- (A) the Trustee shall not be required to take any action, step or proceedings that would involve any personal liability or exposure without first being indemnified and/or secured and/or prefunded to its satisfaction; and
- (B) if a Bondholder who has submitted an Exchange Notice so elects by notice in writing to the Trustee (without any liability on the Trustee as to the consequences of such election and without having regard to the effect of such election on Bondholders or on the beneficial owners of the Bonds), to the extent such Bondholder has submitted an Exchange Notice during the period of seven days after the Due Date in accordance with Condition 7(a)(iii) and the Trustee has express notice of such Exchange Notice, the Trustee shall, as far as reasonably practicable, exclude such of the Secured Property as shall relate to such Exchange Notice for the purposes of permitting those Bondholders to exchange their Bonds for the Exchange Property per Bond and the Trustee shall realise only the Security relating to the remaining Secured Property.

Following any realisation of the Secured Property in accordance with the foregoing provisions of this Condition 3(e), the Trustee shall procure that the relevant *pro rata* share of the proceeds is delivered to each Bondholder entitled thereto pursuant, and subject, to Condition 3(f).

**(f) Application**

Pursuant to the Trust Deed, the Trustee shall apply all moneys received by it under the Transaction Documents (including amounts realised upon enforcement of any Secured Property) as follows:

- (i) first, in payment or satisfaction of the liabilities, and properly incurred fees, costs, charges and expenses of or payable to, and any other amounts owing by the Issuer and/or any Chargor under the relevant Transaction Documents to, the Trustee or any receiver or Appointee (as defined in the Trust Deed) of the Trustee or any Delegate (as defined in each Security Agreement) in preparing and performing the trusts constituted by, and in carrying out or exercising its rights, powers, duties, discretions and authorities under the Trust Deed and/or the other Transaction Documents (including holding and enforcing the Security and including any taxes required to be paid in connection therewith, the costs of realising any Secured Property and the remuneration and expenses of the Trustee and any receiver or any Appointee or Delegate appointed by it);
- (ii) secondly, in payment *pari passu* of all liabilities and costs, charges, fees and expenses properly incurred by, and any other amounts owing by the Issuer and/or any Chargor under the relevant Transaction Documents to, any Paying, Transfer and Exchange Agent, Custodian, Registrar or Calculation Agent in carrying out their respective functions under the Transaction Documents;
- (iii) thirdly, in or towards payment or discharge or satisfaction *pari passu* of all amounts due and payable to the Bondholders in respect of the Bonds and pursuant to the Trust Deed; and



- (iv) fourthly, in payment of any balance to the Issuer for itself and the Chargors (and the Trustee shall not be concerned with the apportionment of any such amounts by the Issuer amongst itself and the Chargors).

**(g) *Addition or Removal of Chargors***

The Issuer may, at its option, without the consent or approval of the Bondholders or any Secured Party but with notice to the Trustee, procure that all or part of the Secured Property held by a Chargor is transferred from such Chargor to another entity (which may be another then-existing Chargor and need not be a Subsidiary of the Issuer). Upon such transfer of Secured Property (aa) if no Secured Property remains to be held by the transferor, the transferor will immediately cease to be a Chargor and all Security in connection with such transferor Chargor shall be immediately released and (bb) (where the transferee is not another then-existing Chargor) the transferee will immediately become a Chargor, in each case for the purpose of these Conditions and the Transaction Documents.

The transfer of Secured Property by a Chargor pursuant to this Condition 2(g), including any appointment and/or removal of a Chargor in connection therewith, is subject to satisfaction of the following conditions:

- (i) the aggregate Secured Property held by the Chargors immediately following the addition or removal of the relevant Chargor is the same or greater than the aggregate Secured Property held by the Chargors immediately prior to the addition or removal of the relevant Chargor; a
- (ii) delivery to the Trustee of certificates from an authorised signatory of the transferor Chargor and an authorised signatory of the transferee Chargor certifying that the transfer is in the opinion of such person not materially prejudicial to the interests of the Bondholders and the other Secured Parties; and
- (iii) delivery to the Trustee of such legal opinions and other certificates as it may reasonably require.

If the conditions referred to above are satisfied, the Trustee shall (at the expense of the Issuer) use its reasonable endeavours to co-operate with the Issuer (including, but not limited to, entering into such documents or deeds (if any) as may be necessary) to give effect to such transfer of Secured Property and/or addition and/or removal of a Chargor, including approving, without the need for the consent or approval of the Bondholders or any Secured Party, such amendments to these Conditions and/or the Transaction Documents as the Trustee may approve in connection with such addition or removal (which may include the entry into by the transferee Chargor of a Custody Agreement and/or Security Agreement and/or other security document, in each case on terms satisfactory to the Trustee), provided that the Trustee shall not be obliged so to co-operate if in the opinion of the Trustee doing so would be contrary to any law or regulation in any jurisdiction or would impose more onerous obligations upon it or expose it to any additional duties, responsibilities or liabilities or reduce or amend the protective provisions afforded to the Trustee in these Conditions, the Trust Deed, the Agency Agreement or any other Transaction Document (including, for the avoidance of doubt, any document supplemental thereto).

In concurring with such transfer and/or appointment and/or removal of a Chargor as referred to above, the Trustee shall be entitled to rely on the opinions and certificates delivered to it in accordance with this Condition 2(g) as sufficient evidence of the satisfaction of the conditions referred to above and without being under any obligation to verify or investigate the same and without being liable to any

person for any loss suffered or incurred as a result and without being required to have regard to the financial condition or prospects of the transferee Chargor and without being required to have regard to the risk of any subsequent challenge to the transfer and/or appointment and/or removal of a Chargor as a result of any insolvency of the transferor Chargor or transferee Chargor or on any other grounds whatsoever.

### 3 Negative Pledge

So long as any Bond remains outstanding (as defined in the Trust Deed) the Issuer will not create or permit to subsist, and will procure that no Principal Subsidiary will create or permit to subsist, any mortgage, charge, pledge, lien or other form of encumbrance or security interest (“**Security Interest**”) upon the whole or any part of its undertaking, assets or revenues present or future to secure (i) any Relevant Debt or (ii) any guarantee of, or indemnity in respect of, any Relevant Debt, unless, at the same time or prior thereto, the obligations of the Issuer under the Bonds and the Trust Deed (1) are secured equally and rateably therewith, or (2) have the benefit of such other security, guarantee, indemnity or other arrangement as the Trustee in its absolute discretion shall deem to be not materially less beneficial to the Bondholders or as shall be approved by an Extraordinary Resolution of the Bondholders, provided that there may be permitted to subsist (without any obligation to accord to the Bonds any Security Interest or to ensure the Bonds benefit from a guarantee or indemnity or other arrangement as aforesaid):

- (A) any Security Interest in respect of any Relevant Debt or any guarantee of, or indemnity in respect of, any Relevant Debt where such Security Interest is subsisting over any undertaking or assets acquired after, or is provided by or subsisting in respect of a company becoming a Subsidiary of the Issuer after, the Closing Date and where such Security Interest exists at the time of such acquisition or at the time at which that company becomes a Subsidiary of the Issuer (provided that such Security Interest was not created in contemplation of such acquisition or of that company becoming a Subsidiary of the Issuer, and further provided that the principal amount of the Relevant Debt secured at the time of such acquisition or that company becoming a Subsidiary of the Issuer is not subsequently increased) and any Security Interest over the same undertaking or assets or provided by or subsisting in respect of that company for the purpose of and to the extent of the refinancing of such Relevant Debt (provided that the principal amount of the Relevant Debt is not, pursuant to the refinancing thereof, increased); and
- (B) any Security Interest securing any other Relevant Debt having a maximum aggregate amount of principal outstanding at any time not exceeding £250,000,000 (or its equivalent).

For the purposes of this Condition 2:

“**Exchangeable Bonds**” means Relevant Debt (for the avoidance of doubt, other than the Bonds) that confers on the holder the right (the “**Exchangeable Bond Right**”) to exchange such Relevant Debt for, or convert such Relevant Debt into, or otherwise purchase, subscribe or acquire, any Equity Share Capital and/or receive a cash payment determined by reference to the market value of such Equity Share Capital and where the relevant Security Interest is limited (directly or indirectly and whether by a Security Interest in respect of any rights under a call option or similar arrangement or stock lending or similar arrangement or otherwise) to:

- (i) the maximum amount of such Equity Share Capital that would be required to be delivered to holders on exercise of the Exchangeable Bond Right (or by reference to which any such cash payment is to be calculated), any rights or entitlements (including in respect of dividends or distributions) in respect of such Equity Share Capital and rights as against any custodian or similar entity in respect thereof; and/or

- (ii) rights as against any paying agent or similar entity in respect of the Exchangeable Bonds over or in respect of amounts held by such agent or other entity for payment in respect of the Exchangeable Bonds; and/or
- (iii) the shares in the capital of any special purpose financing vehicle which issues the Exchangeable Bonds; and/or
- (iv) such other assets or rights as may be determined by the Trustee to be incidental to the foregoing.

**“Permitted Securitisation Indebtedness”** means indebtedness incurred by the Issuer or any of its Subsidiaries in connection with a securitisation of receivables where the recourse of the providers of that indebtedness is limited to:

- (i) those receivables and any defined or identifiable cash flows or income arising out of the securitisation of such receivables; or
- (ii) if those receivables and any such defined or identifiable cash flows or income comprise all or substantially all of the business of the company incurring such indebtedness, the shareholding or other interest of the Issuer or any of its Subsidiaries in such company; and

**“Relevant Debt”** means any indebtedness for borrowed money in the form of, or represented by, bonds, notes, debentures, loan stock or other securities which are, or are capable of being, quoted, listed, dealt in or traded on any stock exchange or other securities market (whether or not initially distributed by way of public offer, private placement, acquisition consideration or otherwise) but shall exclude Permitted Securitisation Indebtedness and any Exchangeable Bonds.

## 4 Registration and Transfer of Bonds

### (a) Registration

The Issuer will cause a register (the **“Register”**) to be kept at the specified office of the Registrar outside of the United Kingdom on which will be entered the names and addresses of the holders of the Bonds and the particulars of the Bonds held by them and of all transfers, redemptions and exchanges of Bonds.

### (b) Transfer

Bonds may, subject to the terms of the Agency Agreement and to Conditions 4(c) and 4(d), be transferred in an Authorised Denomination by lodging the relevant Certificate (with the form of application for transfer in respect thereof duly executed and duly stamped where applicable) at the specified office of the Registrar or any Paying, Transfer and Exchange Agent.

No transfer of a Bond will be valid unless and until entered on the Register. A Bond may be registered only in the name of, and transferred only to, a named person (or persons, not exceeding four in number).

The Registrar will within seven business days, in the place of the specified office of the Registrar, of any duly made application for the transfer of a Bond, register the relevant transfer and deliver a new Certificate to the transferee (and, in the case of a transfer of part only of a Certificate, deliver a Certificate for the untransferred balance to the transferor) at the specified office of the Registrar or (at the risk and, if mailed at the request of the transferee or, as the case may be, the transferor otherwise than by ordinary mail, at the expense of the transferee or, as the case may be, the transferor) mail the

Certificate by uninsured mail to such address as the transferee or, as the case may be, the transferor may request.

**(c) *Formalities Free of Charge***

Such transfer will be effected without charge subject to (i) the person making such application for transfer paying or procuring the payment of any taxes, duties and other governmental charges in connection therewith, (ii) the Registrar being satisfied with the documents of title and/or identity of the person making the application and (iii) such reasonable regulations as the Issuer may from time to time agree with the Registrar (and as initially set out in the Agency Agreement).

**(d) *Closed Periods***

Neither the Issuer nor the Registrar will be required to register the transfer of any Bond (or part thereof) (i) during the period of 15 days ending on and including the day immediately prior to the Final Maturity Date or any earlier date fixed for redemption of the Bonds pursuant to Condition 11(b) or 11(c); (ii) in respect of which an Exchange Notice has been delivered in accordance with Condition 7(b); (iii) in respect of which a Bondholder has exercised its right to require redemption pursuant to Condition 11(d); or (iv) during the period of 15 days ending on (and including) any Record Date in respect of any payment of interest on the Bonds.

## **5 Definitions**

For the purpose of these Conditions, the following words and phrases shall have the following meanings:

“**Additional Exchange Property**” has the meaning provided in Condition 7(d)(ii);

“**Appointee**” has the meaning provided in the Trust Deed;

“**Authorised Officers**” has the meaning provided in the Trust Deed;

“**Bondholder**” and “**holder**” means the person in whose name a Bond is registered in the Register from time to time;

“**business day**” means, in relation to any place, a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments generally in such place;

“**Capital Distribution**” means:

- (a) any Non-Cash Dividend; or
- (b) any Cash Dividend (the “**Relevant Cash Dividend**”) paid or made in any Relevant Period (but on or after the Closing Date and on or prior to the Final Maturity Date) in respect of a Unit of Equity Shares if and to the extent that the Fair Market Value of the Relevant Cash Dividend as at the Ex-Date in respect of such Relevant Cash Dividend, as determined by the Calculation Agent (taking into account the *pro rata* proportion of any such Cash Dividend in respect of any Equity Share where at any time a Unit of Equity Shares would include a fraction of any such Equity Share), exceeds the Reference Amount in respect of such Relevant Period, in which case the amount of the relevant Capital Distribution (in respect of a Unit of Equity Shares) shall be the amount by which the Fair Market Value of the Relevant Cash Dividend (determined as aforesaid) exceeds the Reference Amount, and the Capital Distribution shall be the product of:

- (i) the relevant Capital Distribution in respect of a Unit of Equity Shares determined as provided above; and
  - (ii) the aggregate principal amount of Bonds outstanding divided by £100,000,
- all as determined by the Calculation Agent;

**“Cash Alternative Amount”** has the meaning provided in Condition 7(e);

**“Cash Alternative Calculation Period”** has the meaning provided in Condition 7(e);

**“Cash Alternative Payment Date”** has the meaning provided in Condition 7(e);

**“Cash Dividend”** means (i) any Dividend which is to be paid in cash (in whatever currency), but other than falling within paragraph (b) of the definition of “Spin-Off” and (ii) any Dividend determined to be or treated as a Cash Dividend pursuant to paragraph (a) or (b) of the definition of “Dividend”;

**“Cash Dividend Shortfall Exchange Property Amount”** has the meaning provided in Condition 8(b)(iv).

**“Cash Election”** has the meaning provided in Condition 7(e);

**“Cash Election Exercise Date”** has the meaning provided in Condition 7(e);

**“Cash Election Notice”** has the meaning provided in Condition 7(e);

**“Cash Settled Exchange Property”** has the meaning provided in Condition 7(e);

a **“Change of Control”** shall occur if (i) any person or persons, acting together, shall own, acquire or control, or be entitled to own, acquire or control more than 50 per cent. of the votes that may ordinarily be cast on a poll at a general meeting of the Issuer (other than in any such case as a result of a Newco Scheme) or (ii) an offer is made to all (or as nearly as may be practicable all) Issuer Shareholders (or all (or as nearly as may be practicable all) such Issuer Shareholders other than the offeror and/or any associate (as defined in Section 988(1) of the Companies Act) of the offeror), to acquire all or a majority of the issued ordinary share capital of the Issuer or if any person proposes an Issuer Scheme of Arrangement with regard to such acquisition (other than a Newco Scheme) and (such offer or Issuer Scheme of Arrangement having become or been declared unconditional in all respects or having become effective) the right to cast more than 50 per cent. of the votes which may ordinarily be cast on a poll at a general meeting of the Issuer has or will become unconditionally vested in the offeror(s) or any such person and/or any associate (as defined in Section 988(1) of the Companies Act) of the offeror(s) or such person, as the case may be, *provided that* the following shall not constitute a Change of Control: (x) where the person(s) acquiring control (whether directly or indirectly) as aforesaid is or includes the issuer of the Predominant Equity Share Capital comprised in the Exchange Property; or (y) where the person acquiring control (whether directly or indirectly) as aforesaid is a special purpose entity that acquires the shares of the Issuer and the shares (or equivalent) of the issuer of the Predominant Equity Share Capital comprised in the Exchange Property in consideration or exchange for the issue of shares in that special purpose entity;

**“Change of Control Notice”** has the meaning provided in Condition 11(d);

**“Change of Control Period”** means the period commencing on the occurrence of a Change of Control and ending 60 calendar days following the Change of Control or, if later, 60 calendar days following the date on which a Change of Control Notice is given to Bondholders as required by Condition 11(d);

**“Change of Control Put Date”** has the meaning provided in Condition 11(d);

**“Change of Control Put Exercise Notice”** has the meaning provided in Condition 11(d);

**“Closing Date”** means 30 November 2020;

**“Closing Price”** means, in respect of any day:

- (i) in the case of Shaftesbury Shares, the closing price of a Shaftesbury Share on the Relevant Exchange on such day as published on or derived from Bloomberg page SHB LN Equity HP (or any successor ticker or page) (setting Last Price, or any other successor setting and using values not adjusted for any event occurring after such day; and for the avoidance of doubt, all values will be determined with all adjustment settings on the DPDF Page, or any successor or similar setting, switched off) in respect of such day;
- (ii) in the case of any other Relevant Security, Spin-Off Security, share, option, warrant or other right or asset, the closing price on the Relevant Exchange on such day of such Relevant Security, Spin-Off Security, share, option, warrant or other right or asset published by or derived from the equivalent Bloomberg page in respect of the Relevant Exchange on such day; or
- (iii) in the case of (i) and (ii) above, if not able to be so determined, the closing price in respect of such day on the Relevant Exchange as obtained or derived from such Relevant Exchange on such day,

all as determined by the Calculation Agent provided that:

- (a) if on any such day (for the purposes of this definition, the **“Original Date”**) such price is not available or cannot otherwise be determined as provided above, the Closing Price of a Shaftesbury Share or, as the case may be, any other Relevant Security, Spin-Off Security, share, option, warrant or other right or asset in respect of such day shall be the Closing Price, determined as provided above, on the immediately preceding Trading Day (for such Shaftesbury Shares or, as the case may be, Relevant Securities, Spin-Off Security, shares, options, warrants or other rights or assets) on which the same can be so determined, provided however that if such immediately preceding Trading Day falls prior to the 5th day preceding the Original Date, the Closing Price in respect of such day shall be considered to be not capable of being determined pursuant to this proviso (a), all as determined by the Calculation Agent; and
- (b) if such price cannot be so calculated as aforesaid, the Closing Price of a Shaftesbury Share or, as the case may be, any other Relevant Security, Spin-Off Security, share, option, warrant or other right or asset, in respect of such day shall be determined as at the Original Date by an Independent Adviser in such manner as it shall determine in good faith to be appropriate;

**“Code”** has the meaning provided in Condition 12(e);

**“Consideration”** has the meaning provided in Condition 9(b);

**“Consideration Date”** means, in relation to any Offer (or compulsory acquisition) or Scheme of Arrangement, the date upon which the Consideration is made available to the holders of the relevant Equity Shares;

**“CREST”** means the de-materialised securities trading system operated by Euroclear UK & Ireland Limited;

**“Dividend”** means any dividend or distribution (including a Spin-Off) to holders of Shaftesbury Shares or any class of Equity Shares comprised in the Exchange Property, whether of cash, assets or other property, and however described and whether payable out of share premium account, profits, retained earnings or any other

capital or revenue reserve or account, and including a distribution or payment to such holders upon or in connection with a reduction of capital, a reduction in the par value or nominal value of Shaftesbury Shares or any class of Equity Shares comprised in the Exchange Property or otherwise (and for the purpose of this definition, a distribution of assets includes, without limitation, an issue of shares or other securities credited as fully or partly paid up) provided that:

- (a) (i) where a Dividend in cash is announced which may, at the election of a holder or holders of the Shaftesbury Shares or, as the case may be, the relevant Equity Shares, be satisfied by the issue or delivery of Relevant Securities or other property or assets, or (ii) where an issue of Relevant Securities or other property or assets by way of a capitalisation of profits or reserves is announced which may, at the election of a holder or holders of the Shaftesbury Shares or, as the case may be, the relevant Equity Shares, be satisfied by the payment of cash, then the Dividend or capitalisation in question shall be treated as a Cash Dividend of an amount equal to the Fair Market Value of such cash amount as at the Ex-Date in respect of the relevant Dividend or capitalisation;
- (b) other than in the circumstances the subject of proviso (a) above, where there shall be (i) an issue or delivery of Relevant Securities or other property or assets credited as fully paid by way of capitalisation of profits or reserves or otherwise where such issue is or is expressed to be in lieu of a Dividend (whether or not a cash dividend equivalent or amount is announced) or where a Dividend (whether or not a cash equivalent or amount is announced) is announced that is to be satisfied by the issue or delivery of Relevant Securities or other property or assets, or (ii) an issue or delivery of Relevant Securities or other property or assets by way of capitalisation of profits or reserves or otherwise that is to be satisfied by the payment of cash then, in the case of (i), the capitalisation or Dividend in question shall be treated as a Cash Dividend of an amount equal to the Fair Market Value of such Relevant Securities or other property or assets (as the case may be) as at the Ex-Date in respect of the relevant capitalisation or Dividend or, if later, the date on which the number of Relevant Securities to be issued or delivered (or, as the case may be, the amount of such other property or assets to be delivered) is determined and, in the case of (ii), the capitalisation in question shall be treated as a Cash Dividend of an amount equal to the Fair Market Value of such cash amount as at the Ex-Date in respect of the relevant capitalisation;
- (c) any issue of Relevant Securities falling within Condition 8(b)(i) or 8(b)(iii)(A) shall be disregarded;
- (d) any offer by a Relevant Company of Relevant Securities or other securities or options, warrants or rights to subscribe or purchase further Relevant Securities or other securities falling within Condition 8(b)(ii) shall be disregarded;
- (e) a repurchase or redemption of Equity Shares by or on behalf of a Relevant Company shall be disregarded;
- (f) where a Dividend is paid or made to holders of any Equity Shares pursuant to any plan implemented by the issuer of such Equity Shares for the purpose of enabling holders of the Equity Shares to elect, or which may require such holders, to receive Dividends in respect of such Equity Shares held by them from a person other than, or in addition to, the issuer of such Equity Shares, such Dividend shall for the purposes of these Conditions be treated as a Dividend paid or made to holders of the Equity Shares by the issuer of such Equity Shares, and the foregoing provisions of this definition and the provisions of these Conditions shall be construed accordingly; and
- (g) a Dividend that is a Spin-Off shall be deemed to be a Non-Cash Dividend,

and any such determination shall be made on a gross basis and disregarding any withholding or deduction required to be made on account of tax, and disregarding any associated tax credit;

**“Eligible Equity Shares”** means shares in the Equity Share Capital of a company or entity incorporated or established under the laws of an OECD member state and which are listed or traded on a recognised national or international stock exchange, provided that the Equity Share Free Float in respect of such Equity Share Capital shall have been not less than 15 per cent. of the issued and outstanding Equity Share Capital on each of the 30 consecutive Trading Days ending on and including the Final Date;

**“Equity Share Capital”** means, in relation to any entity, its issued share capital (or equivalent) excluding any part of that capital (or equivalent) that, with respect to dividends and capital does not, carry any right to participate beyond a specific amount in a distribution, and **“Equity Share”** shall be construed accordingly;

**“Equity Share Free Float”** means, in respect of any Equity Shares, the aggregate number of such Equity Shares held by (i) investment trusts or funds, mutual fund, collective investment schemes, trusts or funds or pension funds and (ii) persons that own, together with any other person or persons with whom they act together, Equity Shares representing less than 5 per cent. of the total number of such Equity Shares issued and outstanding, as determined by an Independent Adviser acting reasonably and in good faith, in consultation with the Issuer and where (i) references to “Equity Shares” shall include Equity Shares represented by depositary or other receipts or certificates representing Equity Shares; (ii) Equity Shares held by or on behalf of a depositary or custodian or similar person in respect of any such depositary or other receipts of certificates representing Equity Shares from time to time shall be treated as being held by the holder of the relevant depositary or other receipts or certificates and not by such depositary, custodian or similar person; and (iii) Equity Shares held by or on behalf of the issuer of such Equity Shares or any subsidiary of such issuer or any person or persons acting together with such issuer or any subsidiary of such issuer shall be treated as not constituting part of the Equity Share Free Float;

**“Equivalent Amount”** has the meaning provided in Condition 7(d)(iii);

**“Ex-Date”** means the first date on which the Shaftesbury Shares or, as the case may be, the relevant Equity Shares, are traded ex- the relevant Dividend or capitalisation or entitlement on the Relevant Exchange (or, if not listed, quoted or dealt in on any stock exchange or securities market, the date for establishing entitlement in respect of the relevant Dividend or capitalisation or entitlement) or, in the case of a Spin-Off, on the first date on which the Shaftesbury Shares or, as the case may be, the relevant Equity Shares are traded ex- the relevant Spin-Off on the Relevant Exchange (or, if not listed, quoted or dealt in on any stock exchange or securities market, the date for establishing entitlement in respect of the relevant Spin-Off);

**“Exchange Date”** has the meaning provided in Condition 7(b)(i);

**“Exchange Notice”** has the meaning provided in Condition 7(b)(i);

**“Exchange Period”** has the meaning provided in Condition 7(a)(ii);

**“Exchange Property”** has the meaning provided in Condition 8(a);

**“Exchange Property per Bond”** means, for each Bond at any time, a fraction of the Exchange Property the numerator of which shall be the principal amount of such Bond and the denominator of which shall be the aggregate principal amount of all the Bonds (including the Bond to which the relevant fraction relates) which are outstanding at such time (excluding for this purpose the principal amount of any Bonds in respect of which Exchange Rights have been exercised by a Bondholder but in respect of which the Exchange Property



or the relevant Cash Alternative Amount, as the case may be, has not yet been delivered or paid and excluding from the Exchange Property such portion of the Exchange Property in relation to such Bonds);

**“Exchange Right”** has the meaning provided in Condition 7(a)(i);

**“Excluded United Kingdom Stamp Taxes”** means any higher rate of Stamp Taxes payable or imposed pursuant to any of Sections 67, 70, 93 or 96 of the Finance Act 1986 on the transfer or delivery of Exchange Property (a) to, or to a nominee or agent for, a person whose business is or includes issuing depositary receipts or (b) to, or to a nominee for, a person whose business is or includes the provision of clearance services;

**“Exempt Change of Control”** means the occurrence of any of the circumstances described in limb (x) or limb (y) of the proviso to the definition of Change of Control;

**“Exempt Change of Control Acquiror”** means the person or persons acquiring control of the Issuer pursuant to an Exempt Change of Control;

**“Extraordinary Resolution”** has the meaning provided in the Trust Deed;

**“Fair Market Value”** means, with respect to any property as at or on any date (the **“FMV Date”**) (and as determined by the Calculation Agent):

- (i) in the case of a Cash Dividend paid or to be paid per Shaftesbury Share or other Relevant Security, the amount of such Cash Dividend per Shaftesbury Share or other Relevant Security;
- (ii) in the case of any other cash amount, the amount of such cash;
- (iii) in the case of Relevant Securities, Spin-Off Securities, shares, options, warrants or other securities, rights or assets which are publicly traded on a Relevant Exchange of adequate liquidity (as determined by (where the Calculation Agent determines in its sole discretion that it is capable of making such determination in its capacity as Calculation Agent) the Calculation Agent or (in any other case) an Independent Adviser), the arithmetic mean of (a) in the case of Relevant Securities, Spin-Off Securities, shares, options, warrants or other securities, rights or assets for which a Volume Weighted Average Price (disregarding for this purpose proviso (b) to the definition thereof) is generally available, the Volume Weighted Average Price of such Relevant Securities, Spin-Off Securities, shares, options, warrants or other securities, rights or assets or (b) in the case of Relevant Securities, Spin-Off Securities, options, warrants or other securities, rights or assets for which a Volume Weighted Average Price (disregarding for this purpose proviso (b) to the definition thereof) is not generally available, the Closing Price of such Relevant Securities, Spin-Off Securities, shares, options, warrants or other securities, rights or assets, in the case of (a) and (b) during the period of five Trading Days (for such Relevant Securities, Spin-Off Securities, shares, options, warrants or other securities, rights or assets) commencing on such FMV Date (or, if later, the date (the **“Adjusted FMV Date”**) which falls on the first such Trading Day such Relevant Securities, Spin-Off Securities, shares, options, warrants or other securities, rights or assets are publicly traded) or such shorter period as such Relevant Securities, Spin-Off Securities, shares, options, warrants or other securities, rights or assets are publicly traded, provided that where such Adjusted FMV Date falls after the fifth day following the FMV Date, the Fair Market Value of such Relevant Securities, Spin-Off Securities, shares, options, warrants or other securities, rights or assets shall instead be determined pursuant to paragraph (iv) below, and no such Adjusted FMV Date shall apply); and

- (iv) in the case of Relevant Securities, Spin-Off Securities, shares, options, warrants or other securities, rights or assets which are not publicly traded on a Relevant Exchange of adequate liquidity (as aforesaid) or where the proviso to paragraph (iii) above applies, the fair market value thereof as determined by an Independent Adviser on the basis of a commonly accepted market valuation method and taking account of such factors as it considers appropriate, including volatility, prevailing interest rates and the terms of such Relevant Securities, Spin-Off Securities, shares, options, warrants or other securities, rights or assets,

provided that:

(A) such amounts shall (unless otherwise specified in these Conditions) in each case be converted, if necessary, by the Calculation Agent:

- (a) (in the case of (i) or (ii) above) into sterling at the Prevailing Rate on the FMV Date (or, as the case may be, the Adjusted FMV Date);
  - (b) (in the case of (iii) above) into sterling, by converting each such Volume Weighted Average Price or, as the case may be, Closing Price, at the Prevailing Rate on each Trading Day in the relevant period, such conversion being made before calculating the arithmetic mean of the Volume Weighted Average Prices or, as the case may be, the Closing Prices, as provided above; or
  - (c) (in the case of (iv) above) into such currency, and on such date or on the basis of such average over such period, as an Independent Adviser shall determine in good faith to be appropriate; and
- (B) in the case of (i), (ii), (iii) or (iv) above, Fair Market Value shall be determined on a gross basis and disregarding any withholding or deduction required to be made on account of tax, and disregarding any associated tax credit;

**“FATCA”** means (a) Sections 1471 through 1474 of the Code and any associated regulations; (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in (a) above; or (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction, or official interpretations of any of the foregoing;

**“Final Acceptance Date”** means, in respect of any Offer, the final date for acceptance of such Offer which, if such Offer is extended prior to becoming unconditional, shall be the final date for acceptance of the extended Offer (but, if such Offer is or becomes unconditional, disregarding any additional or further period during which such Offer is open for acceptance);

**“Final Date”** means, in relation to any Offer, the date the Offer becomes or is declared unconditional in all respects and, in relation to a Scheme of Arrangement, the date the Scheme of Arrangement is or becomes effective in accordance with applicable law;

**“Final Maturity Date”** means 30 March 2026;

**“Further Bonds”** has the meaning provided in Condition 21;

**“Independent Adviser”** means an independent financial institution of international repute with appropriate expertise, which may (without limitation) be the Calculation Agent, appointed at its own expense by the

Issuer and (other than where the initial Calculation Agent is appointed) approved in writing by the Trustee or, if the Issuer fails to make such appointment and such failure continues for a reasonable period (as determined by the Trustee in its sole discretion) and the Trustee is indemnified and/or secured and/or prefunded to its satisfaction against the liabilities, costs, fees and expenses of such adviser and otherwise in connection with such appointment, appointed by the Trustee (without liability for so doing) following notification to the Issuer;

**“Interest Payment Date”** has the meaning provided in Condition 6(a);

**“Interest Period”** has the meaning provided in Condition 6(a);

**“Issuer Shareholders”** means the holders of fully paid ordinary shares in the capital of the Issuer with a par value as at the Closing Date of £0.25 each;

**“MTF”** has the meaning provided in Condition 10(a);

**“Newco Scheme”** means a scheme of arrangement or analogous proceeding (**“Issuer Scheme of Arrangement”**) which effects the interposition of a limited liability company (**“Newco”**) between the Issuer Shareholders immediately prior to completion of the Issuer Scheme of Arrangement (the **“Existing Shareholders”**) and the Issuer; provided that (i) only ordinary shares or units or equivalent of Newco or depositary or other receipts or certificates representing ordinary shares or units or equivalent of Newco are issued to Existing Shareholders (except for a nominal holding by initial subscribers); (ii) immediately after completion of the Issuer Scheme of Arrangement the only holders of ordinary shares, units or equivalent of Newco or, as the case may be, the only holders of depositary or other receipts or certificates representing ordinary shares of Newco, are Existing Shareholders; (iii) immediately after completion of the Issuer Scheme of Arrangement, Newco is (or one or more wholly-owned subsidiaries of Newco are) the only shareholder (or shareholders) of the Issuer; (iv) all Subsidiaries of the Issuer immediately prior to the Issuer Scheme of Arrangement (other than Newco, if Newco is then a Subsidiary of the Issuer) are Subsidiaries of the Issuer (or of Newco) immediately after completion of the Issuer Scheme of Arrangement; and (v) immediately after completion of the Issuer Scheme of Arrangement the Issuer (or Newco) holds, directly or indirectly, the same percentage of the ordinary share capital and equity share capital of those Subsidiaries as was held by the Issuer immediately prior to the Issuer Scheme of Arrangement;

**“Non-Cash Dividend”** means any Dividend which is not a Cash Dividend;

**“Offer”** means an offer to the holders of any Equity Shares of a class comprised in the Exchange Property, whether expressed as a legal offer, an invitation to treat or in any other way, in circumstances where such offer is available to all holders of the applicable Equity Shares (or all or substantially all such holders other than any holder to whom such offer may not be extended pursuant to applicable securities or other laws or who is, or is connected with, or is deemed to be acting together or in concert with, the person making such offer or to whom, by reason of the laws of any territory or requirements of any recognised regulatory body or any stock exchange in any territory, it is determined not to make such an offer);

**“Offered Cash Amount”** means the cash amount in sterling (or, where applicable, translated into sterling at the applicable Prevailing Rate, on the Final Date) comprising the whole or part of the Consideration for one Equity Share in respect of the Offer or Scheme of Arrangement, as the case may be (other than cash paid in respect of fractional entitlements to the Offered Property) provided that if the Offered Property comprises securities or property other than Eligible Equity Shares, such securities or property will be deemed, for the

purpose of this definition to form part of the Offered Cash Amount in an amount equal to their Fair Market Value on the Final Date (translated into sterling at the Prevailing Rate on the Final Date);

**“Offered Property”** means the Consideration for one Equity Share in respect of the Offer or Scheme of Arrangement, as the case may be, excluding the Offered Cash Amount;

**“Offered Property Value”** means the Fair Market Value of the Offered Property at the close of business on the Final Date (if not in sterling, translated into sterling at the Prevailing Rate on the Final Date). In the case of an Offer or Scheme of Arrangement, as the case may be, the Consideration in respect of which is entirely in cash (including such securities or property which fall within the definition of “Offered Cash Amount”) the Offered Property Value shall be zero;

**“Optional Redemption Date”** has the meaning provided in Condition 11(b);

**“Optional Redemption Notice”** has the meaning provided in Condition 11(b);

**“Permitted Expenses”** means such amount, as determined in good faith by the Issuer, as is equal to or, as the case may be, as would be equivalent to the costs and expenses, including any applicable stamp, transfer, registration or similar taxes or duties, incurred or, as the case may be, that would be incurred by the Issuer or the relevant Chargor in making the relevant sale, subscription and purchase or taking up of rights as provided in these Conditions (whether or not any such sale, subscription or purchase or taking up of rights is made), together with such amount as would be equivalent to that necessary to indemnify the Issuer or the relevant Chargor in respect of any liability to taxation in relation to any such sale, subscription and purchase or taking up of rights (whether or not any such sale, subscription or purchase or taking up of rights is made);

**“Permitted Transfer Arrangements”** means:

- (i) any arrangements entered into from time to time between a Chargor and the Issuer or any of the Issuer’s Subsidiaries which are in the reasonable opinion of the Issuer necessary or desirable to enable the Exchange Property per Bond (or, where applicable, the relevant proportion thereof) to be delivered by or on behalf of the Issuer to or to the order of a Bondholder in satisfaction of the exercise of Exchange Rights (if any), provided that such arrangements shall not adversely affect the Security over the Exchange Property; and/or
- (ii) any grant of any option, or present or future right to acquire, any of the Secured Property where the relevant option or right may only be exercised when the Secured Property which is the subject of such option or right has been released pursuant to Condition 2(d);

**“Potential Event of Default”** has the meaning provided in the Trust Deed;

**“Predominant Equity Share Capital”** means, if at any time there is more than one type or series of Equity Share Capital comprised in the Exchange Property, such type or series of Equity Share Capital which in the determination of an Independent Adviser represents the largest proportion or weighting by value in the Exchange Property at such time;

**“Predominant Exchange Security”** means at any time, (i) if at such time there is only one type or series of Relevant Security comprised in the Exchange Property, such Relevant Security or (ii) if at such time there is more than one type or series of Relevant Securities comprised in the Exchange Property, such type or series of Relevant Securities which in the determination of the Calculation Agent (where the Calculation Agent determines in its sole discretion that it is capable of making such determination in its capacity as the

Calculation Agent) or of an Independent Adviser (in any other case) represents the largest proportion or weighting by value in the Exchange Property at such time;

**“Prevailing Rate”** means, in respect of any pair of currencies on any day, the spot mid-rate of exchange between the relevant currencies prevailing as at 12 noon (London time) on that date (for the purpose of this definition, the **“Original Date”**) as appearing on or derived from Bloomberg page BFIX (or any successor page) in respect of such pair of currencies, or, if such rate cannot be so determined, such rate prevailing as at 12 noon (London time) on the immediately preceding day on which such rate can be so determined, provided that if such immediately preceding day falls earlier than the fifth day prior to the Original Date or if such rate cannot be so determined (all as determined in good faith by the Calculation Agent), the Prevailing Rate in respect of the Original Date shall be the rate determined in such other manner as an Independent Adviser shall in good faith consider appropriate;

**“Principal Subsidiary”** has the meaning provided in Condition 14;

**“Quarter”** means each period in any year commencing on (and including) a Quarter Date and ending on (but excluding) the next following Quarter Date;

**“Quarter Date”** means 31 March, 30 June, 30 September and 31 December in each year;

**“Realisation Proceeds”** means the proceeds of sale (after the deduction of Permitted Expenses) of the relevant Exchange Property or the relevant dividends or other income or distributions or rights attaching thereto which is carried out by an independent broker or investment bank of international repute selected by the Issuer and approved by the Trustee, on an arm’s length basis (converted if necessary into sterling at the Prevailing Rate by the Calculation Agent on the date of receipt of such proceeds);

**“Record Date”** has the meaning provided in Condition 12(c);

**“Reference Exchange Property”** has the meaning provided in Condition 7(e);

**“Register”** has the meaning provided in Condition 4(a);

**“Registered Securities”** has the meaning provided in Condition 7(d)(ii);

**“Registration Date”** means, in respect of any Registered Securities comprised in the Exchange Property to be delivered to a Bondholder upon exercise of Exchange Rights, the date on which the relevant Bondholder is registered as the holder of such Registered Securities;

**“Regulated Market”** mean the regulated market of the London Stock Exchange or a regulated market as defined by Article 4.1 (21) of Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments;

**“Regulation S”** has the meaning provided in Condition 7(b)(i);

**“Relevant Bond”** means any Bond subject to a notice of redemption given pursuant to Condition 11(b) or 11(c);

**“Relevant Company”** means Shaftesbury and any corporation or company derived from or resulting or surviving from the merger, consolidation, amalgamation, reconstruction or acquisition of Shaftesbury with, into or by such other corporation or company, and any other entity, all or part of the share capital of which is, or all or some of the securities of which are, at the relevant time included in the Exchange Property;

“**Relevant Period**” means each of the periods set out below, and “**Reference Amount**” in respect of any Relevant Period means the amount set out below in respect of such Relevant Period, provided that (in the case of any Relevant Period for which the Reference Amount is not initially equal to zero) such Reference Amount shall be adjusted to be equal to zero immediately following the date on which the first Cash Dividend is paid or made during such Relevant Period;

<b>Relevant Period</b>	<b>Reference Amount (£)</b>
From (and including) the Closing Date to (and including) 30 March 2021	0.00
From (and including) 31 March 2021 to (and including) 30 September 2021	695.265
From (and including) 1 October 2021 to (and including) 30 March 2022	695.265
From (and including) 31 March 2022 to (and including) 30 September 2022	695.265
From (and including) 1 October 2022 to (and including) 30 March 2023	695.265
From (and including) 31 March 2023 to (and including) 30 September 2023	695.265
From (and including) 1 October 2023 to (and including) 30 March 2024	695.265
From (and including) 31 March 2024 to (and including) 30 September 2024	695.265
From (and including) 1 October 2024 to (and including) 30 March 2025	695.265
From (and including) 31 March 2025 to (and including) 30 September 2025	695.265
From (and including) 1 October 2025 to (and including) 28 February 2026	695.265
From and (including) 1 March 2026 to (and including) the Final Maturity Date	0.00

“**Relevant Date**” means, in respect of any payment on or in respect of any Bond, whichever is the later of:

- (a) the date on which such payment first becomes due; and
- (b) if any amount payable is improperly withheld or refused, the earlier of (i) the date on which payment in full of the amount outstanding is made and (ii) the date falling seven days after the Trustee or the Principal Paying, Transfer and Exchange Agent has notified Bondholders of receipt of all sums due in

respect of all the Bonds up to that seventh day (except to the extent that there is failure in the subsequent payment to the relevant holders as provided in these Conditions);

“**Relevant Debt**” has the meaning provided in Condition 3;

“**Relevant Event**” has the meaning provided in Condition 8(b)(iii);

“**Relevant Exchange**” means:

- (i) in the case of the Shaftesbury Shares, the London Stock Exchange plc or, if the Shaftesbury Shares cease to be admitted to trading on the London Stock Exchange plc, the principal stock exchange or securities market on which the Shaftesbury Shares are, at the relevant time, listed, admitted to trading or quoted or dealt in; or
- (ii) in the case of any other Equity Shares or Relevant Securities or other securities or options, warrants or other rights or assets, the principal stock exchange or securities market on which such Equity Shares or Relevant Securities or other securities or options, warrants or other rights or assets are then listed, admitted to trading or quoted or dealt in,

where “**principal stock exchange or securities market**” shall mean the stock exchange or securities market on which the Shaftesbury Shares, other Equity Shares or Relevant Securities or other securities or options, warrants or other rights or assets (as the case may be) are listed, admitted to trading or quoted or dealt in, provided that if the Shaftesbury Shares or, as the case may be, such other Equity Shares or Relevant Securities or other securities or options, warrants or other rights or assets are listed, admitted to trading or quoted or dealt in (as the case may be) on more than one stock exchange or securities market at such time, then “principal stock exchange or securities market” shall mean that stock exchange or securities market on which the Shaftesbury Shares, or as the case may be, the relevant Equity Shares or Relevant Securities or other securities or options, warrants or other rights or assets are traded at such time as determined by the Calculation Agent by reference to the stock exchange or securities market with the highest average daily trading volume in respect of the Shaftesbury Shares or other Equity Shares or Relevant Securities or other securities or options, warrants or other rights or assets, as the case may be;

“**Relevant Securities**” means any securities which at the relevant time are included in the Exchange Property;

“**Rights Issue**” has the meaning provided in Condition 8(b)(ii);

“**Scheme of Arrangement**” means a scheme of arrangement or analogous procedure that results in the acquisition by another entity of all or a majority of the Equity Shares of a class comprised in the Exchange Property;

“**Secured Parties**” means the Trustee, any receiver or other Appointee, Delegate, the Bondholders, the Paying, Transfer and Exchange Agents, the Custodian, the Calculation Agent and the Registrar;

“**securities**” means shares or other securities (including without limitation any options, warrants, convertible bonds, evidence of indebtedness or rights to subscribe or purchase shares or other securities);

“**Settlement Date**” means, in the case of the exercise of Exchange Rights (other than in respect of the relevant Exchange Property (if any) in respect of which a Cash Election is made), the date falling 10 Trading Days after the relevant Exchange Date;

“**Shaftesbury**” means Shaftesbury plc;

**“Shaftesbury Shares”** means ordinary shares with a nominal value £0.25 in the capital of Shaftesbury and all other (if any) shares or stock resulting from any subdivision, consolidation or reclassification of those shares which, as between themselves, have no preference in respect of dividends or amounts payable in the event of any voluntary or involuntary liquidation or winding-up of Shaftesbury;

**“Specified Date”** means, in relation to any Offer, seven Trading Days (in respect of the Equity Shares the subject of the relevant Offer) prior to the Final Acceptance Date;

**“Spin-Off”** means:

- (a) a distribution of Spin-Off Securities by Shaftesbury to holders of Shaftesbury Shares as a class or, as the case may be, by any Relevant Company to the holders of its Equity Share Capital as a class; or
- (b) any issue, transfer or delivery of any property or assets (including cash or shares or securities) by any entity (other than Shaftesbury or, as the case may be, the Relevant Company) to holders of Shaftesbury Shares as a class or, as the case may be, by any Relevant Company to the holders of its Equity Share Capital as a class;

**“Spin-Off Securities”** means Equity Share Capital of an entity other than Shaftesbury, or as the case may be, the Relevant Company or options, warrants or other rights to subscribe for or purchase Equity Share Capital of an entity other than Shaftesbury, or as the case may be, the Relevant Company;

**“Stamp Taxes”** has the meaning provided in Condition 7(b)(i);

**“Subsidiary”** means a subsidiary of the Issuer within the meaning provided in Section 1159 of the Companies Act;

**“sterling”** and **“£”** means the lawful currency for the time being of the United Kingdom;

**“Sub-division, Consolidation or Redenomination”** has the meaning provided in Condition 8(b)(i);

**“Tax Redemption Date”** has the meaning provided in Condition 11(c).

**“Tax Redemption Notice”** has the meaning provided in Condition 11(c).

**“Trading Day”** means:

- (i) where specified to be in respect of Shaftesbury Shares or any Relevant Securities, Spin-Off Securities or other shares or options, warrants or other rights or assets, a day on which (x) the Relevant Exchange in respect thereof is open for business (other than a day on which the Relevant Exchange is scheduled to or does close prior to its regular closing time) and (y) the Shaftesbury Shares or such Relevant Securities, Spin-Off Securities or other shares or options, warrants or other rights or assets (as the case may be) may be traded or dealt in;
- (ii) where not specified as aforesaid, a day on which (x) the Relevant Exchange in respect of the Predominant Exchange Security is open for business (other than a day on which the Relevant Exchange is scheduled to or does close prior to its regular closing time) and (y) such Predominant Exchange Security may be traded or dealt in; and
- (iii) if the Exchange Property comprises solely cash, a London business day;



**“Transaction Documents”** means the Trust Deed, the Security Agreements, the Agency Agreement, the Custody Agreements and the Calculation Agency Agreement, as the same may be amended, modified, supplemented and/or restated from time to time;

**“Unit of Equity Shares”** means at any time the number (rounded to the nearest whole multiple of 0.01 (with 0.005 rounded upwards)) of Shaftesbury Shares or any other Equity Shares comprised in the Exchange Property per Bond;

**“Value”** means, with respect to any property on any day;

- (1) in the case of a publicly-traded security for which a Volume Weighted Average Price is available on such day, the Volume Weighted Average Price (disregarding for this purpose proviso (b) to the definition thereof) of such publicly-traded security on such day, all as determined by the Calculation Agent;
- (2) in the case of a publicly-traded security for which a Volume Weighted Average Price (disregarding for this purpose proviso (b) to the definition thereof) is not available on such day, the Closing Price (disregarding for this purpose proviso (b) to the definition thereof) of such publicly-traded security on such day, all as determined by the Calculation Agent;
- (3) in the case of cash, the amount of such cash on such day; and
- (4) in the case of any other property or assets and in the case of any publicly-traded security for which a value cannot be determined pursuant to paragraph (1) or (2) above, the fair market value of such property or assets or security on such day, all as determined by an Independent Adviser,

in each case translated by the Calculation Agent (if not in sterling) into sterling at the Prevailing Rate in effect on such day,

provided that:

- (a) for the purpose of determining the Value of the Exchange Property per Bond, such Value shall be equal to the aggregate of the Values of any property and assets (determined as provided in this definition) included in the Exchange Property per Bond, as determined by the Calculation Agent;
- (b) if on any day any such publicly-traded securities are quoted or traded on the Relevant Exchange cum any dividend or other entitlement, or any assets or publicly-traded securities the value of which is to be determined pursuant to (4) above have the benefit of, or are entitled to, or carry the right to, any dividend or other entitlement, in any such case which (or a portion of which) a Bondholder would not be entitled to pursuant to these Conditions (including in respect thereof pursuant to any Additional Exchange Property deliverable pursuant to Condition 7(d)(ii) or any cash amount or other property deliverable pursuant to Condition 7(d)(iii)) in respect of the relevant exercise of Exchange Rights (assuming for any other purpose other than determining the Cash Alternative Amount, that such relevant exercise of Exchange Rights had occurred on such day) (disregarding for this purpose any Cash Election in respect of such relevant exercise of Exchange Rights), then the value of any such publicly-traded securities or assets on such day shall be reduced by an amount equal to the Value (or, in the case of a Cash Dividend or other cash amount, the Fair Market Value (converted, if necessary, into sterling at the Prevailing Rate on such date)) as at such date of any such dividend or other entitlement (or relevant portion thereof), all as determined by the Calculation Agent;

- (c) if on any day any such publicly-traded securities are quoted or traded on the Relevant Exchange ex any dividend or other entitlement, or any assets or publicly traded securities the value of which is to be determined pursuant to (4) above do not have the benefit of, or are not entitled to, or do not carry the right to, any dividend or other entitlement, in any such case which (or a portion of which) (AA) a Bondholder would be entitled to pursuant to these Conditions (or in respect of which the relevant Bondholder would have been entitled to receive any Additional Exchange Property pursuant to Condition 7(d)(ii) or any cash amount or other property deliverable pursuant to Condition 7(d)(iii)) in respect of the relevant exercise of Exchange Rights (assuming, for any purpose other than determining the Cash Alternative Amount, that such relevant exercise of Exchange Rights had occurred on such day) (disregarding for this purpose any Cash Election in respect of such relevant exercise of Exchange Rights) and (BB) no adjustment to the Exchange Property in respect thereof pursuant to Condition 8(b) is in effect as at the date on which the relevant Exchange Property in respect of such exercise of Exchange Rights is determined, then the value of any such publicly-traded securities or assets on such day shall be increased by an amount equal to the Value (or, in the case of a Cash Dividend or other cash amount, the Fair Market Value (converted, if necessary, into sterling at the Prevailing Rate as at such date)) as at such date of any such dividend or other entitlement (for the relevant portion thereof), all as determined by the Calculation Agent; and
- (d) if any doubt shall arise as to whether any adjustment to the determination of Value is required, or as to the appropriate adjustment(s) required, to give the intended result, the Issuer may appoint an Independent Adviser to make a determination in good faith in respect thereof and, in the absence of manifest error and following consultation between the Issuer and the Independent Adviser, the written determination by the Independent Adviser in respect thereof shall be final and binding on the Issuer, the Bondholders, the Trustee and the Paying, Transfer and Exchange Agents; and

**“Volume Weighted Average Price”** means, in respect of any day:

- (i) in the case of Shaftesbury Shares, the volume weighted average price of a Shaftesbury Share on the Relevant Exchange published by or derived from Bloomberg page SHB LN Equity HP (or any successor ticker or page) (setting Weighted Average Line, or any other successor setting and using values not adjusted for any event occurring after such day; and for the avoidance of doubt, all values will be determined with all adjustment settings on the DPDF Page, or any successor or similar setting, switched off) in respect of such day;
- (ii) in the case of any other Relevant Security, Spin-Off Security, share, option, warrant or other right or asset, the volume weighted average price published by or derived from the equivalent Bloomberg page in respect of the Relevant Exchange on such day; or
- (iii) in the case of (i) and (ii) above, if not able to be so determined, the volume weighted average price in respect of such day on the Relevant Exchange as obtained or derived from such Relevant Exchange on such day,

all as determined by the Calculation Agent, and provided that:

- (a) if on any such day (for the purpose of this definition, the **“Original Date”**) such price is not available or cannot otherwise be determined as provided above, the Volume Weighted Average Price of a Shaftesbury Share or, as the case may be, any other Relevant Security, Spin-Off Security, share, option, warrant or other right or asset in respect of such day shall be the Volume Weighted Average Price, determined as provided above, on the immediately preceding Trading Day for Shaftesbury Shares or,

as the case may be, such other Relevant Securities, Spin-Off Securities, shares, options, warrants or other rights or assets on which the same can be so determined, provided that if such immediately preceding Trading Day falls prior to the fifth day preceding the Original Date, the Volume Weighted Average Price in respect of such day shall be considered to be not capable of being determined pursuant to this proviso (a), all as determined by the Calculation Agent; and

- (b) if the Volume Weighted Average Price cannot be determined as aforesaid, the Volume Weighted Average Price of a Shaftesbury Share or, as the case may be, any other Relevant Security, Spin-Off Security, share, option, warrant or other right or asset in respect of such day shall be determined as at the Original Date by an Independent Adviser in such manner as it shall determine in good faith to be appropriate.

References to any offer “**by way of rights**” shall be taken to be references to an issue or offer or grant to all or substantially all holders of the class of securities in question, other than holders to whom, by reason of the laws of any territory or requirements of any recognised regulatory body or any other stock exchange or securities market in any territory or in connection with fractional entitlements, it is determined not to make such offer or grant.

References to any act or statute or any provision of any act or statute shall be deemed also to refer to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under such modification or re-enactment.

## **6 Interest**

### **(a) Interest Rate**

The Bonds bear interest from (and including) the Closing Date at the rate of 2.00 per cent. per annum calculated by reference to the principal amount thereof and payable semi-annually in arrear in equal instalments on 30 March and 30 September in each year (each an “**Interest Payment Date**”), commencing with the Interest Payment Date falling on 30 September 2021.

The first Interest Period (as defined below) shall be a long first Interest Period for the period from (and including) the Closing Date to (but excluding) the first Interest Payment Date and the amount of interest payable in respect of each £100,000 in principal amount of the Bonds on the first Interest Payment Date shall be £1,665.75.

The amount of interest payable in respect of any period which is shorter than an Interest Period shall be calculated on the basis of the number of days in the relevant period from (and including) the first day of such period to (but excluding) the last day of such period divided by the product of the number of days from (and including) the immediately preceding Interest Payment Date (or, if none, the Closing Date) to (but excluding) the next Interest Payment Date and the number of Interest Periods normally ending in any year.

“**Interest Period**” means the period beginning on (and including) the Closing Date and ending on (but excluding) the first Interest Payment Date and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next succeeding Interest Payment Date.

### **(b) Accrual of Interest**

Each Bond will cease to bear interest (i) where the Exchange Right shall have been exercised in respect thereof, from, and including, the Interest Payment Date immediately preceding the relevant

Exchange Date or, if none, the Closing Date (subject in any such case as provided in Condition 6(c)) or (ii) where such Bond is redeemed or repaid pursuant to Condition 11 or Condition 14, from, and including, the due date for redemption or repayment unless, upon surrender of the relevant Certificate, payment of the full amount due is improperly withheld or refused, in which event such Bond shall continue to bear interest at the rate specified in Condition 6(a) (both before and after judgment) until whichever is the earlier of (a) the day on which all sums due in respect of such Bond up to that day are received by or on behalf of the relevant holder and (b) the day seven days after the Trustee or the Principal Paying, Transfer and Exchange Agent has notified Bondholders of receipt of all sums due in respect of all the Bonds up to that seventh day (except to the extent that there is any subsequent default in payment).

**(c) *Interest upon Exchange prior to Early Redemption***

If:

- (i) any notice requiring the redemption of any Bonds is given pursuant to Condition 11(b) or 11(c) on or after (or within 15 days before) the record date or other due date for the establishment of entitlement in respect of any dividend, distribution or interest payable in respect of the Shaftesbury Shares (or other Equity Share Capital comprising on such date more than one-quarter by Value of the Exchange Property);
- (ii) such notice specifies a date for redemption falling on or before (or within 14 days after) the Record Date in respect of the Interest Payment Date next following such record date; and
- (iii) the Exchange Date in respect of any Bond which is the subject of any such notice (a “**Relevant Bond**”) falls after such record date or other due date for the establishment of entitlement to such dividend, distribution or interest and on or before the Record Date in respect of the Interest Payment Date next following such record date or other due date for the establishment of entitlement to such dividend, distribution or interest,

then interest shall accrue on each Relevant Bond from, and including, the preceding Interest Payment Date (or, if the relevant Exchange Date falls on or before the first Interest Payment Date, from, and including, the Closing Date) to, but excluding, the relevant Exchange Date.

Any such interest shall be paid by the Issuer not later than 14 days after the relevant Exchange Date by transfer to a sterling account maintained by the holder with a bank in London in accordance with instructions given by the relevant Bondholder in the relevant Exchange Notice.

## **7 Exchange Right**

**(a) Exchange Rights and Exchange Period**

- (i) Subject to the right of the Issuer to make a Cash Election, each Bondholder shall have the right to have all or any of its Bonds redeemed at any time during the Exchange Period referred to below by exchange of each such Bond for the Exchange Property per Bond as at the relevant Exchange Date as calculated by the Calculation Agent. Such redemption of a Bond in exchange for Exchange Property per Bond (or, as the case may be, for payment of the Cash Alternative Amount) is referred to herein as an “**exchange**” and the right of a Bondholder to require an exchange is herein referred to as the “**Exchange Right**”. Upon exercise of Exchange Rights, the Issuer shall (subject to the right of the Issuer to make a Cash Election and in respect of the

Exchange Property to which such Cash Election relates) deliver or procure the delivery of the relevant Exchange Property per Bond as provided in these Conditions.

- (ii) Subject to applicable law and as provided in this Condition 7(a) and save as provided in these Conditions, the Exchange Right relating to any Bond may be exercised by the holder thereof only in the following circumstances:
  - (A) where the Exchange Date falls at any time from (and including) the First Call Date to (but excluding) the tenth London business day prior to the Final Maturity Date; or
  - (B) at any time up to (but excluding) the First Call Date:
    - (aa) where the Exchange Date falls during a particular Quarter, if the arithmetic mean of the Value of the Exchange Property per Bond on each Trading Day in any period of 20 consecutive Trading Day in the period of 30 consecutive Trading Days ending on (and including) the Trading Day immediately preceding the final Trading Day of the immediately preceding Quarter, is greater than £130,000;
    - (bb) in the case of early redemption of all the outstanding Bonds at the option of the Issuer pursuant to Condition 11(b), provided that the Exchange Date falls in the period from (and including) the date on which the relevant notice of redemption is given up to (but excluding) the tenth London business day preceding the date of early redemption unless there shall be a default in making payment in respect of such Bond on any such date fixed for redemption, in which event up to (and including) the date on which the full amount of such payment becomes available for payment and notice of such availability has been duly given to Bondholders in accordance with Condition 19 (or, if such date is not a London business day, the immediately following London business day) or, if earlier, the Final Maturity Date or, if the Final Maturity Date is not a London business day, the immediately preceding London business day;
    - (cc) in the case of the announcement by the issuer of any Equity Shares comprised in the Exchange Property of a distribution to holders of such Equity Shares of cash, assets, securities or other property where the Fair Market Value (converted, if necessary, into sterling at the Prevailing Rate as provided in the definition of "Fair Market Value") (on the date on which the terms of such distribution were first publicly announced by such issuer) of such distribution per Equity Share is greater than 25 per cent. of the arithmetic mean of the Volume Weighted Average Price (converted, if necessary, into sterling at the Prevailing Rate) of such an Equity Share on each Trading Day (for such Equity Shares) in the 30 Trading Day (for such Equity Shares) period ending on (and including) the Trading Day (for such Equity Shares) immediately preceding the date of such first public announcement as aforesaid (or, as the case may be, the Adjusted FMV Date if applicable when determining such Fair Market Value as aforesaid), as the Issuer shall notify to the Bondholders in accordance with Condition 19 and to the Trustee no later than the third London business day following the first date on which such Fair Market Value as aforesaid is determined as provided pursuant to the definition thereof (or, where such Fair Market Value is determined pursuant

to paragraph (iv) of the definition thereof, no later than the 10th London business day following the date of such first public announcement as aforesaid), provided that the Exchange Date falls in the period from (and including) the date on which such notification is made to (and including) the London business day immediately preceding the later of (i) the first Trading Day (for such Equity Shares) on which such Equity Shares are traded ex- the relevant distribution and (ii) the 10th Trading Day (for such Equity Shares) following the date on which such notification is made; or

- (dd) in the case of the occurrence of a Change of Control, provided that the Exchange Date falls during the Change of Control Period; or
- (ee) if an Offer is made or a Scheme of Arrangement becomes effective in respect of the Predominant Equity Share Capital comprised in the Exchange Property, where the Exchange Date falls in the period of 30 London business days following the Consideration Date; or
- (ff) in case of the occurrence of an Event of Default, provided that the Exchange Date falls in the period (if any) from (and including) (i) where Trustee Certification with respect to such Event of Default is not required, the date of occurrence of the Event of Default, or where applicable, the date of expiry of the relevant grace period related to the Event of Default, or (ii) where Trustee Certification with respect to such Event of Default is required, the later of (x) the date of expiry of any applicable grace period related to the Event of Default and (y) the date on which the Trustee has certified that the relevant Event of Default is in its opinion materially prejudicial to the interests of the Bondholders, in each case in accordance with Condition 14, up to (but excluding) the date (if any) on which the Bonds are declared due and payable pursuant to Condition 14; or
- (gg) if a Parity Event or IA Parity Event occurs, provided that the Exchange Date falls during the period of five consecutive London business days commencing on and including the first London business day following the Issuer Notification Date. Whether or not a Parity Event or IA Parity Event has occurred for the purposes of this sub-paragraph shall be determined in accordance with the provisions of Condition 7(g).

The period during which Exchange Rights may be exercised by a Bondholder subject to the foregoing provisions is referred to as the “**Exchange Period**”.

- (iii) From (and including) the First Call Date, if the Trustee shall give notice to the Issuer declaring the Bonds to be immediately due and repayable pursuant to Condition 14, notice of such fact shall forthwith be given by the Issuer to the Bondholders in accordance with Condition 19 and each Bondholder shall (whether or not the Exchange Right attaching to its Bond is then otherwise exercisable) be entitled, at any time after the date on which the Bonds become so due and repayable (the “**Due Date**”) until the date being the last day of the period of two weeks after the Due Date (but not thereafter), to elect (by delivering in accordance with the provisions of this Condition 7 a duly signed and completed Exchange Notice, together with the relevant Certificate, to the specified office of any Paying, Transfer and Exchange Agent) in lieu of

having his Bond repaid, to exercise the Exchange Right in respect of such Bond as at the Due Date (and references to the Exchange Date shall be construed as being the Due Date), save that no such election may be made in respect of a Bond the relevant Certificate for which has been surrendered for payment on or after the Due Date (provided that payment in full of all amounts then due on the relevant Bond is made upon such surrender). Subject as provided in this Condition 7, Exchange Rights shall lapse in the event that the Trustee shall give notice to the Issuer that the Bonds are immediately due and repayable pursuant to Condition 14.

- (iv) Other than where a Cash Election is made by the Issuer, upon a due exercise of Exchange Rights the relevant Bondholder shall be entitled to receive the Exchange Property per Bond in respect of each Bond the subject of such exercise, as at the relevant Exchange Date, as calculated by the Calculation Agent.
- (v) No fraction of a Relevant Security or any other property comprised in the Exchange Property which is not divisible shall be delivered on exercise of the Exchange Rights and the Issuer shall not be under any obligation to make any payment to Bondholders in respect of any such fraction and any such fraction will (subject to paragraph (vii) below) be rounded down by the Calculation Agent to the nearest whole multiple of a Relevant Security or unit of any such other property.
- (vi) If more than one Bond is to be exchanged by a Bondholder pursuant to any one Exchange Notice, the Exchange Property to be delivered and any sum payable to that Bondholder (including, where applicable, any Cash Alternative Amount) shall be calculated by the Calculation Agent on the basis of the aggregate principal amount of such Bonds.

**(b) Procedure for exercise of Exchange Rights**

- (i) Exchange Rights may be exercised by a Bondholder during the Exchange Period by delivering the relevant Certificate to the specified office of any Paying, Transfer and Exchange Agent, during its normal business hours, accompanied by a duly completed and signed notice of exchange (an “**Exchange Notice**”) in the form (for the time being current) obtainable from any Paying Transfer and Exchange Agent.

If such delivery is made after the end of normal business hours or on a day which is not a business day in the place at the specified office of the relevant Paying, Transfer and Exchange Agent, such delivery shall be deemed for all purposes of these Conditions to have been made on the next following such business day.

An Exchange Notice, once delivered, shall be irrevocable.

*For so long as the Bonds continue to be represented by the Global Bond, Exchange Rights may be exercised by the delivery of one or more Exchange Notices to any Paying, Transfer and Exchange Agent in accordance with the standard procedures for Euroclear and Clearstream, Luxembourg.*

Exchange Rights shall be exercised subject in each case to any applicable fiscal or other laws or regulations applicable in the jurisdiction in which the specified office of the Paying, Transfer and Exchange Agent to whom the relevant Exchange Notice is delivered is located.

Any determination as to whether any Exchange Notice has been duly completed and properly delivered shall be made by the relevant Paying, Transfer and Exchange Agent and shall, save in the case of manifest error, be conclusive and binding on the Issuer, the Trustee, the Paying, Transfer and Exchange Agents and the relevant Bondholder.

A Bondholder exercising Exchange Rights will be required to certify in the relevant Exchange Notice (a “**U.S. Certification**”) that (A) it and any person (for whom it is acquiring Shaftesbury Shares or other Exchange Property on such exercise) is not a “U.S. person” within the meaning of Regulation S (“**Regulation S**”) under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”) and it is not acting as, or as agent for or on behalf of, a U.S. person; (B) it understands that the Shaftesbury Shares and/or any other part of the Exchange Property to be delivered upon such exercise have not been registered under the Securities Act and (C) it is located outside the United States (within the meaning of Regulation S), is acquiring the Shaftesbury Shares and/or any other part of the Exchange Property to be delivered upon such exercise in an “offshore transaction” (as defined in Regulation S) in accordance with Rule 903 or 904 of Regulation S and understands that the Shaftesbury Shares and/or any other part of the Exchange Property may not be delivered within the United States upon such exercise and may not be resold in the United States except pursuant to an exemption from the registration requirements of the Securities Act. If such U.S. Certification is not provided, the relevant Exchange Notice shall be void.

Upon exercise of Exchange Rights, a Bondholder shall, in the relevant Exchange Notice, specify a sterling account maintained by the payee with a bank in London to which any cash amount payable on or in respect of the exercise of Exchange Rights by that Bondholder shall be credited and the Issuer shall pay such sum to the relevant Bondholder in accordance with any such directions.

Exchange Rights may only be exercised in respect of an Authorised Denomination.

The exchange date in respect of a Bond (the “**Exchange Date**”) in respect of which the Exchange Right shall have been exercised by a Bondholder will be the London business day immediately following the date of the delivery of the Exchange Notice and the relevant Certificate as provided in this Condition 7(b).

The Issuer will pay any stamp, registration, documentary, transfer or other similar taxes or duties (including interest and penalties) arising on the transfer or delivery of any Exchange Property to or to the order of a Bondholder pursuant to the exercise of Exchange Rights (“**Stamp Taxes**”) which are payable or imposed in the United Kingdom (other than any Excluded United Kingdom Stamp Taxes), Belgium or Luxembourg and (if different) the jurisdiction in which the relevant Exchange Property is situated (and for this purpose any securities in registered form comprising Exchange Property shall be deemed to be situated in the jurisdiction in which the register (or in the case of more than one register, the principal register) on which title to and transfers of such securities are recorded or maintained is located). Subject to the above, a Bondholder exercising Exchange Rights must pay directly to the relevant authorities (i) any other taxes and capital, stamp, issue, registration, documentary, transfer or other duties (including interest and penalties) arising in any jurisdiction not mentioned above on exchange and/or on the transfer, delivery or other disposition of Exchange Property arising on exercise of Exchange Rights and (ii) any Excluded United Kingdom Stamp



Taxes payable or imposed on the transfer or delivery of Exchange Property as referred to above. If Exchange Rights are exercised in respect of part of a Bondholder's holding, the Registrar will annotate the Register accordingly and will issue a new Certificate to the relevant Bondholder in respect of the Bonds so remaining.

Neither the Trustee nor any Paying, Transfer and Exchange Agent nor the Calculation Agent shall be responsible for determining whether any Stamp Taxes are payable or the amount thereof and it shall not be responsible or liable for any failure by the Issuer to pay such Stamp Taxes.

If the Issuer shall fail to pay any Stamp Taxes for which it is responsible as provided above, the relevant holder who is liable for the payment of such Stamp Taxes shall be entitled to tender and pay the same and the Issuer covenants to reimburse each such Bondholder in respect of the payment of such Stamp Taxes and any interest and penalties payable in respect thereof.

Each Bondholder must pay all, if any, taxes imposed on it and arising by reference to any disposal or deemed disposal of a Bond or interest therein in connection with the exercise of Exchange Rights by it.

(ii) Other than where a Cash Election is made by the Issuer, the Issuer shall cause the relevant Exchange Property to be delivered on exercise of Exchange Rights to be transferred or delivered on or prior to the Settlement Date as follows:

- (1) in respect of Shaftesbury Shares (or other securities which are for the time being deliverable through CREST) by delivery of such Shaftesbury Shares as aforesaid through CREST to the person designated for the purpose in the relevant Exchange Notice;
- (2) in respect of other Relevant Securities that are deliverable through a clearing system (other than CREST), by delivery through that clearing system to the account specified in the relevant Exchange Notice;
- (3) in respect of Relevant Securities not falling within (1) or (2) above, procure that forms of transfer and certificates (if certificates for such Relevant Securities are then generally being issued) together with all other documents of title and evidence of ownership and all other documents necessary to transfer or evidence the transfer of such Relevant Securities will be despatched by mail, and free of charge (but uninsured and at the risk of the person entitled thereto), to such address, subject to applicable securities laws, as the Bondholder may specify in the relevant Exchange Notice; and
- (4) procure that such documents of title and evidence of ownership of any other Exchange Property shall be despatched and that payment of any part of the Exchange Property comprising cash to be delivered on exercise of Exchange Rights (converted if necessary into sterling at the Prevailing Rate on the relevant Exchange Date) shall be made, in each case in accordance with directions given by the relevant Bondholder in the Exchange Notice.

Notwithstanding the above, if CREST or, as the case may be, the relevant clearing system through which the delivery of Shaftesbury Shares or other Exchange Property is to be made as provided above, has been closed for a continuous period of two or more days (excluding

Saturdays and Sundays and save by reason of holidays, statutory or otherwise) in the period between the relevant Exchange Date to and the relevant Settlement Date, the Issuer will notify the relevant Bondholder at the address of the relevant Bondholder specified in the relevant Exchange Notice (as the Issuer may determine) and the date for such delivery shall be the later of the final day of the period above and the earliest practicable date on which the relevant Exchange Property may be delivered or transferred to the relevant Bondholder by or through CREST or, as the case may be, the relevant clearing system.

The Issuer shall not be responsible or liable to any person for any delay in the delivery of any property comprising Exchange Property following exercise of Exchange Rights arising as a result of a failure by the relevant Bondholder to supply all information and details as required by the relevant Exchange Notice.

Notwithstanding the above, if, after the relevant Exchange Date, the Exchange Property has changed in whole or in part as a result of an Offer or as a result of the compulsory acquisition of any Equity Shares or as a result of a Scheme of Arrangement becoming effective, in each case as provided in Condition 9, then the Issuer will notify the relevant Bondholder at the address of the Bondholder specified in the relevant Exchange Notice (unless the Issuer has given notice of such change to Bondholders generally in accordance with Condition 19) and the time for such delivery shall be the longer of such period set out above and the day falling 10 London business days after the Consideration Date or, as the case may be, the day falling 10 London business days following the date on which the consideration pursuant to such compulsory acquisition is received by the Issuer or the relevant Chargor.

**(c) Settlement Disruption**

If, at any time when the transfer or delivery of any Exchange Property (other than cash) to a Bondholder is required in accordance with these Conditions, such transfer or delivery would, as certified to the Trustee by two Authorised Officers of the Issuer, be unlawful under the laws of any applicable jurisdiction or contrary to any official declaration, order, directive or regulation in any applicable jurisdiction, the Issuer will notify the relevant Bondholder at the address of the Bondholder specified in the relevant Exchange Notice (unless the Issuer has given notice of such fact to Bondholders generally in accordance with Condition 19) and the Issuer will make a cash payment to the relevant Bondholder equal to the aggregate of the Realisation Proceeds in respect of the relevant Exchange Property in lieu of the delivery of such Exchange Property to such Bondholder. The Issuer will pay any such amount to the relevant Bondholder not later than 10 London business days after the relevant Settlement Date.

**(d) Exchange Property record date, Additional Exchange Property, Equivalent Amounts**

**(i) Exchange Property Record Date**

Except in respect of any Exchange Property to which such Cash Election relates, a Bondholder shall upon exchange of each Bond, be, subject as provided herein, deemed as between it and the Issuer or the relevant Chargor to be, on the relevant Exchange Date the holder of record of all Relevant Securities and/or the owner of any other property or assets included in the Exchange Property to be delivered to such Bondholder, and in each case shall be, subject as provided herein, entitled as between it and the Issuer or the relevant Chargor to receive all dividends, interest and other income payments and distributions and rights in respect of such Exchange

Property and any Additional Exchange Property declared paid, made or granted by reference to a record date or other due date for the establishment of entitlement in respect thereof falling on or after such Exchange Date.

Subject as provided herein, Exchange Property to be delivered on exercise of Exchange Rights shall not include any dividends or other income thereon or other distributions or rights in respect thereof, declared, paid, made or granted by reference to a record date or other due date for the establishment of the relevant entitlement falling prior to the relevant Exchange Date.

(ii) Additional Exchange Property

Without prejudice to Condition 7(e) and subject as provided in Condition 7(d)(iii)(III), if:

- (A) the Exchange Date in respect of any Bond shall be on or after the date of any public announcement affecting the composition of any part of the Exchange Property (other than securities in registered form (“**Registered Securities**”) in circumstances where the relevant entitlement is determined by reference to a record date in respect thereof), but before the date on which such change is effective; or
- (B) the Exchange Date in respect of any Bond shall be on or after the record date or other due date for the establishment of the relevant entitlement in respect of any Rights Issue or any Sub-division, Consolidation or Redenomination or Relevant Event in respect of any Registered Securities comprising Exchange Property but before the date on which adjustment of the Exchange Property becomes effective; or
- (C) the Exchange Date in respect of any Bond shall be on or before the record date or other due date for the establishment of the relevant entitlement in respect of any Rights Issue or any Sub-division, Consolidation or Redenomination or Relevant Event in respect of any Registered Securities comprising Exchange Property in circumstances where the Registration Date in respect of such Registered Securities is after such record date or other due date for the establishment of the relevant entitlement and the relevant Bondholder would not otherwise receive the relevant entitlement but the Issuer or the relevant Chargor has received or is entitled to receive such entitlement,

then in each case, the relevant Bondholder, other than where a Cash Election applies to the relevant exercise of Exchange Rights and in respect of the Exchange Property to which such Cash Election relates, and unless the Issuer or the relevant Chargor is able to confer on or deliver to the relevant Bondholder the benefit of the relevant entitlement, shall be entitled to receive, in respect of the exercise of the relevant Exchange Rights, such *pro rata* amount or, as the case may be, further *pro rata* amount of the Exchange Property (“**Additional Exchange Property**”) as would have been receivable had the relevant Exchange Date occurred immediately after the date on which such change in the composition of the Exchange Property or adjustment to the Exchange Property became effective or, as the case may be, had the relevant Registration Date in respect of such Registered Securities been immediately before such record date or other due date for establishment of entitlement, all as determined by the Calculation Agent, and such Additional Exchange Property shall be delivered to the relevant Bondholder in accordance with instructions contained in the relevant Exchange Notice as soon as practicable following the relevant adjustment to the Exchange Property or the receipt by the Issuer or the relevant Chargor of the relevant Additional Exchange Property.

(iii) Equivalent Amounts

- (I) If the record date or other due date for the establishment of the relevant entitlement for or in respect of any Dividend, interest or other income, payment or distribution or rights on or in respect of any such Exchange Property to be delivered on exercise of Exchange Rights falls on or after the Exchange Date but before the relevant Settlement Date (or any other date from which the relevant Bondholder is treated as the owner of, or entitled to all rights and entitlement to, such Exchange Property) with the effect that the relevant Bondholder is not entitled to such dividend, interest or other income, payment or distribution of rights, the Issuer will or will procure that the relevant Chargor will (unless it is able to confer on or deliver to the relevant Bondholder an entitlement to receive such dividend, interest or other income, payment or distribution or rights or (in the case of sub-paragraph (z) below) unless and to the extent that the same is taken into account for the purposes of Condition 7(d)(ii) relating to entitlement to Additional Exchange Property):
- (y) (in the case of a Cash Dividend or any interest or other income, payment or distributions or rights to be paid or made in cash) pay, or procure the payment to, the exchanging Bondholder in lieu thereof, an amount equal to the gross amount thereof, all as determined by the Calculation Agent, converted if necessary into sterling at the Prevailing Rate on the date of receipt thereof by the Issuer (the “**Equivalent Amount**”). The Issuer will pay the Equivalent Amount, or procure that it is paid, to the relevant Bondholder by not later than 10 London business days after the receipt by the Issuer or the relevant Chargor of the relevant Cash amount; and
- (z) (in the case of a Non-Cash Dividend or any other income or distributions or rights to be satisfied or made otherwise than in cash) deliver, or procure the delivery of, the same to the relevant Bondholder not later than 10 London business days after the receipt by the Issuer or the relevant Chargor of such Non-Cash Dividend or other income or distribution or rights. If, at any time when the delivery of any such dividend or other income or distribution or rights is required, delivery would, as certified to the Trustee by two Authorised Officers of the Issuer, be unlawful under the laws of any applicable jurisdiction or contrary to any official declaration, order, directive or regulation in any applicable jurisdiction, the Issuer will make a cash payment equal to the aggregate Realisation Proceeds of such dividend or other income or distribution or rights, converted, if necessary, into sterling at the Prevailing Rate on the date of receipt by the Issuer or the relevant Chargor of the Realisation Proceeds. The Issuer will pay any such amount to the relevant Bondholders not later than 10 London business days after the receipt by the Issuer or the relevant Chargor of such Non-Cash Dividend or other income or distribution or rights.
- (II) For the purposes of this Condition 7(d), if there is an option to receive the relevant entitlement in the form of a cash amount or otherwise than in cash, the entitlement shall

be treated as being paid or made in cash, and accordingly the provisions of (a) above shall apply.

- (III) If, in respect of any dividend, interest or other income, payment or distributions or rights to be paid or made in cash, the provisions of Condition 7(d)(iii)(I) require an Equivalent Amount or other property to be paid or delivered to a Bondholder and, in respect of such dividend, interest or other income, payment or distributions or rights, the provisions of Condition 7(d)(ii) require Additional Exchange Property to be delivered to such Bondholder, then the provisions of Condition 7(d)(iii)(I) shall prevail and the relevant Bondholder shall be entitled to receive the relevant Equivalent Amount, and Condition 7(d)(ii) shall not apply to such dividend, interest or other income, payment or distributions or rights.

- (iv) Rights in respect of securities comprised in the Exchange Property

The Issuer makes no representation or warranty as to whether any Bondholder may under applicable laws or regulations be entitled to exercise any voting or other rights in respect of any securities comprised in the Exchange Property delivered to it upon exercise of Exchange Rights or to receive or have the benefit of any dividends or distributions or economic rights or benefits relating to such securities, nor whether any approval, consent or filing (or the like) is required to be obtained by such Bondholders in accordance with applicable laws and regulations in connection with the acquisition by it of any securities comprised in the Exchange Property or to exercise any such voting or other rights or to receive or have the benefit of any such dividends or distributions or economic rights. The inability of any Bondholder to exercise any such voting or other rights or to receive or have the benefit of any such dividends or distributions or other economic rights as a result of the application of applicable laws or regulations or the failure by the relevant Bondholder to obtain any applicable approval or consent or make any filing (or the like) in accordance with applicable laws and regulations shall not constitute a breach (however so described, and including a Potential Event of Default and an Event of Default) by the Issuer of its obligations under the Bonds or the Trust Deed.

**(e) Cash Election**

- (i) Upon the exercise of Exchange Rights by a Bondholder, the Issuer may make an election (a “**Cash Election**”) by giving notice (a “**Cash Election Notice**”) to the relevant Bondholder by not later than the Cash Election Exercise Date to satisfy all or part of its obligation to deliver Exchange Property in respect of the Bonds on such exercise of Exchange Rights by making payment, or procuring that payment is made, to the relevant Bondholder of the Cash Alternative Amount in respect of the Exchange Property specified in the relevant Cash Election Notice as being the Cash Settled Exchange Property.

Where the Cash Settled Exchange Property is less than the Reference Exchange Property in respect of the relevant exercise of Exchange Rights, the Issuer shall deliver such Exchange Property as is equal to the Reference Exchange Property minus the Cash Settled Exchange Property, as provided in these Conditions, together with any other amounts payable by the Issuer to such Bondholder or Bondholders pursuant to these Conditions in respect of, or relating to, the relevant exercise of Exchange Rights, including any interest payable pursuant to Condition 6(c).

A Cash Election Notice shall be given to the relevant Bondholder to the email address as provided in the relevant Exchange Notice and to the Principal Paying, Transfer and Exchange Agent, the Trustee and the Calculation Agent.

A Cash Election Notice shall specify the Reference Exchange Property, the Cash Settled Exchange Property, the Cash Alternative Calculation Period and the Cash Alternative Payment Date.

A Cash Election shall be irrevocable.

The Issuer will pay the Cash Alternative Amount, together with any other amount as aforesaid, by not later than the Cash Alternative Payment Date by transfer to a sterling account maintained with a bank in London in accordance with instructions contained in the relevant Exchange Notice.

For the purposes of these Conditions:

**“Cash Alternative Amount”** means a sum in sterling (rounded to the nearest whole multiple of £0.01, with £0.005 rounded up) equal to the arithmetic average of the Value on each Trading Day in the Cash Alternative Calculation Period of the relevant Cash Settled Exchange Property, as calculated by the Calculation Agent or if any doubt shall arise as to the appropriate calculation of the Cash Alternative Amount to give the intended result, or if such amount cannot be so determined, the amount determined in such other manner as an Independent Adviser shall consider in good faith to be appropriate;

**“Cash Alternative Calculation Period”** means the period of 30 consecutive Trading Days commencing on the second Trading Day following the Cash Election Exercise Date;

**“Cash Alternative Payment Date”** means the date falling five London business days after the last day of the Cash Alternative Calculation Period;

**“Cash Election Exercise Date”** means, in respect of an exercise of Exchange Rights by a Bondholder, the fourth Trading Day following the relevant Exchange Date;

**“Cash Settled Exchange Property”** means, in respect of an exercise of Exchange Rights by a Bondholder, such Exchange Property (which shall be a whole number of the relevant unit of property and shall not exceed the Reference Exchange Property or, as the case may be, the total of the relevant property comprised in the Reference Exchange Property in respect of such exercise) as determined by the Issuer and notified to the relevant Bondholders in the relevant Cash Election Notice; and

**“Reference Exchange Property”** means, in respect of the exercise of Exchange Rights by a Bondholder, the aggregate of the Exchange Property per Bond as at the relevant Exchange Date in respect of all Bonds the subject of such exercise.

- (ii) If and to the extent a Bondholder would otherwise have been entitled to receive, in respect of the exercise of Exchange Rights, any Additional Exchange Property pursuant to Condition 7(d)(ii) or any Equivalent Amount or other property pursuant to Condition 7(d)(iii) in circumstances where a Cash Election is made in respect of the relevant exercise of Exchange Rights and to the extent not taken into account in the provisos to the definition of “Value”, the Issuer shall, in lieu of delivering such Additional Exchange Property, pay to the relevant

Bondholder an amount (the “**Further Amount**”) equal to the Value of such Additional Exchange Property as at the date on which the relevant change in the composition of the Exchange Property is or would be effective (the “**Change Date**”), all as determined by the Calculation Agent and such Further Amount shall be paid by transfer to a sterling account maintained by the payee with a bank in London in accordance with instructions contained in the relevant Exchange Notice by not later than the date (or if such date) is not a London business day, the next following London business day) which is the later of (a) the date falling five London business days after the Change Date and (b) the relevant Cash Alternative Payment Date.

**(f) No Charges**

Neither the Issuer nor any Paying, Transfer and Exchange Agent will impose any costs, fees, charges or expenses on Bondholders on or in respect of the exercise of Exchange Rights or the delivery of any Exchange Property.

**(g) Parity Event; IA Parity Event**

Whether or not a Parity Event or IA Parity Event has occurred for the purposes of Condition 7(a)(ii)(B)(gg) shall be determined in accordance with the provisions of this Condition 7(g).

Any person with an interest in a Bond (or any person acting on its behalf) shall be entitled to notify the Issuer in writing, with a copy to the Calculation Agent, in each case in accordance with Condition 19, (each, a “**Parity Notification Event Notice**”) if and to the extent that a Parity Notification Event has occurred, provided that such notice shall be accompanied by reasonable supporting evidence regarding the occurrence of such Parity Notification Event. Any Parity Notification Event Notice which is so provided after 5.00 p.m. (London time) on a London business day, or which is delivered on a day which is not a London business day, shall be deemed to have been provided on the next following London business day.

A Parity Notification Event Notice shall include a certification by or on behalf of the relevant person that it holds an economic interest in at least one Bond, on which certification the Issuer and the Calculation Agent shall be able to rely, in the absence of fraud or manifest error, without further investigation. If a Parity Notification Event Notice is delivered in accordance with the foregoing, neither the Issuer nor the Calculation Agent shall be entitled or required to demand any further information from such person.

The date on which any Parity Notification Event Notice is provided (or deemed to be so provided) to the Issuer and the Calculation Agent in accordance with the foregoing shall be the “**Notification Date**”. Once a Parity Notification Event Notice has been provided (or deemed to be so provided) on a Notification Date, any subsequent Parity Notification Event Notice shall be disregarded, and no Notification Date shall occur in respect of that subsequent Parity Notification Event Notice, if the Parity Notification Event to which that subsequent Parity Notification Event Notice relates occurred in respect of a period which ended prior to the Notification Date in respect of the first Parity Notification Event Notice provided.

The following shall apply in respect of each Notification Date which is deemed to occur under this Condition 7(g):

- (A) the Issuer shall give notice thereof to the Bondholders in accordance with Condition 19 (and such notice shall be given no later than on the first Trading Day of the relevant Reference Period and shall specify such Reference Period);
- (B) the Calculation Agent shall determine whether or not a Parity Event or (as the case may be) a Bond Price Unavailability Date has occurred in respect of the relevant Reference Period;
- (C) if a Parity Event occurs in respect of the relevant Reference Period, the Calculation Agent shall notify the Issuer thereof by no later than the second Trading Day immediately following the date on which such Parity Event shall be deemed to have occurred;
- (D) if a Bond Price Unavailability Date occurs in respect of the relevant Reference Period, (i) the Issuer shall give notice thereof to the Bondholders in accordance with Condition 19 (and such notice shall be given no later than on the second Trading Day following such Bond Price Unavailability Date and shall specify the relevant Bond Price Determination Date); and (ii) the Calculation Agent shall determine whether an IA Parity Event has occurred or has not occurred in respect of such Reference Period (such determination to have been made no later than the third Trading Day immediately following the Bond Price Determination Date); and
- (E) the Issuer will give notice of the Calculation Agent's determination to the Bondholders and the Trustee in accordance with Condition 19 no later than the date falling on the second Trading Day immediately following the date on which the Calculation Agent notifies the Issuer of such determination as aforesaid (the date on which notice is given by the Issuer as aforesaid being referred to as the **"Issuer Notification Date"**).

None of the Issuer, the Calculation Agent, the Independent Adviser, the Trustee or any Paying, Transfer and Exchange Agent will be required to monitor Quotes for the Bonds or Bid Prices or to take any steps or to perform any related calculations to verify whether a Parity Notification Event, Parity Event or IA Parity Event has occurred, and shall not be liable to the Bondholders or any other person for not doing so, save (in the case of the Issuer, the Calculation Agent and the Independent Adviser only and only as expressly provided in this Condition 7(g)) where a Notification Date has occurred pursuant to this Condition 7(g).

If (x) no Quote for the Bonds is available as contemplated by section (ii) of the definition of "IA Parity Event", the Issuer shall appoint an Independent Adviser to determine the fair mid-market value of £100,000 in principal amount of the Bonds in the manner required by such section and (y) any doubt shall arise as to whether Exchange Rights are capable of being exercised pursuant to Condition 7(a)(ii)(B)(gg) by reason of the occurrence of a Parity Event or an IA Parity Event pursuant to this Condition 7(g), the Issuer may appoint an Independent Adviser to determine in good faith whether Exchange Rights are capable of being exercised by Bondholders as aforesaid and, in the absence of manifest error and following consultation between the Issuer and the Independent Adviser, the written determination of the Independent Adviser in respect of (x) and/or (y), as the case may be, shall be conclusive and binding on the Issuer, the Bondholders and the Trustee.

In these Conditions:

**"Bid Price"** means, in respect of any day, the bid price per £100,000 in principal amount of the Bonds quoted by a Leading Institution as at or around 5.00 p.m. (London time) on such day;



**“Bond Price Determination Date”** means the fifth Trading Day following the relevant Bond Price Unavailability Date;

A **“Bond Price Unavailability Date”** shall occur in respect of any Reference Period if, as determined by the Calculation Agent, no Quote for the Bonds is available in respect of at least six of the Trading Days comprised in that Reference Period, in which case the Bond Price Unavailability Date shall be deemed to occur on the 6th Trading Day falling in the relevant Reference Period in respect of which no Quote for the Bonds is available;

**“Closing Value”** with respect to any property on any day means the Value thereof on such day, save that (i) paragraph (1) of (and any references thereto in) the definition of “Value” and (ii) the words “for which a Volume Weighted Average Price is not available on such day” in paragraph (2) of the definition of “Value” shall be disregarded;

An **“IA Parity Event”** shall occur in respect of any Reference Period if, as determined by the Calculation Agent: (i) a Bond Price Unavailability Date occurs in respect of that Reference Period; and (ii) the Quote for the Bonds in respect of the Bond Price Determination Date (or, if no such Quote for the Bonds is available, the fair mid-market value of £100,000 in principal amount of the Bonds as at or around 5.00 p.m. (London time) on the Bond Price Determination Date, as determined by an Independent Adviser) is less than 97 per cent. of the Closing Value of the Exchange Property per Bond on such Bond Price Determination Date;

**“Leading Institution”** means any bank or financial institution which is a leading, internationally recognised market maker in trading exchangeable and/or convertible bonds;

A **“Parity Event”** shall occur in respect of any Reference Period where the following is satisfied in respect of not less than 10 Trading Days comprised in such Reference Period: (i) a Quote for the Bonds is available in respect of the relevant Trading Day; and (ii) the Quote for the Bonds in respect of the relevant Trading Day is less than 97 per cent. of the Closing Value of the Exchange Property per Bond on such Trading Day, all as determined by the Calculation Agent. For the purposes of this Condition 7, the Parity Event shall be deemed to occur on the 10th Trading Day falling in the relevant Reference Period in respect of which both (i) and (ii) above are satisfied;

A **“Parity Notification Event”** shall occur if, in respect of each of not less than 10 Trading Days over a period of 20 consecutive Trading Days (ending no earlier than the fifth Trading Day before the Issuer Notification Date), either (i) no Bid Price was available from a Leading Institution in respect of such Trading Day, or (ii) the average of the Bid Prices provided by three Leading Institutions (or such lesser number of such Leading Institutions (if any) as the Bondholder is able to obtain a Bid Price from) in respect of such Trading Day was less than 97 per cent. of the Closing Value of the Exchange Property per Bond on such Trading Day;

**“Quote for the Bonds”** means, in respect of any Trading Day, as determined by an Independent Adviser:

- (i) the arithmetic average of the Bid Prices in respect of that Trading Day provided to such Independent Adviser in respect of that Trading Day by three Leading Institutions selected by such Independent Adviser; or
- (ii) where only two of the three Leading Institutions so selected provide such a Bid Price in respect of that Trading Day, the arithmetic average of the two Bid Prices so provided; or

- (iii) where only one of the three Leading Institutions so selected provides such a Bid Price in respect of that Trading Day, the Bid Price so provided,

provided that in each case if, in the opinion of such Independent Adviser, one or more of the Bid Prices so provided is materially different from the actual traded prices of the Bonds, such Bid Price shall be disregarded and shall be deemed not to have been so provided; and

provided further that where no Bid Price is so provided in respect of that Trading Day, it shall be deemed that no Quote for the Bonds is available in respect of that Trading Day; and

**“Reference Period”** means, in respect of any Issuer Notification Date, the period of 15 consecutive Trading Days commencing on the second Trading Day following such Issuer Notification Date.

## **8 The Exchange Property**

### **(a) Initial Exchange Property**

The **“Exchange Property”** as at the Closing Date comprises 38,239,588 Shaftesbury Shares and shall, from time to time, include:

- (i) all Relevant Securities and other property and assets (including any cash amounts) arising out of or derived or resulting therefrom; and
- (ii) such other property as may be deemed or required to comprise all or part of the Exchange Property pursuant to these Conditions,

but excluding (x) any interest accrued in respect of any amounts attributable to the Exchange Property standing to the credit of the Cash Accounts and credited to the Cash Accounts by the Custodian pursuant to the Custody Agreements, (y) any such property as may or may be deemed to have ceased to form part of the Exchange Property and (z) (without prejudice to the provisions of Condition 8(b)(iv)) any Cash Dividend other than to the extent comprising a Capital Distribution.

*Based on the Exchange Property as at the Closing Date, the Exchange Property per Bond as at the Closing Date is 13,905.3047 Shaftesbury Shares for each £100,000 principal amount of Bonds (equivalent to an initial implied exchange price of £7.1915 per Shaftesbury Share).*

The Exchange Property is subject to adjustment in accordance with this Condition 8 and Condition 9.

All Exchange Property transferred or delivered upon exercise of Exchange Rights shall be transferred or delivered with full title guarantee and free from any and all security interests or other adverse interests.

Except in the circumstances provided in these Conditions, dividends and other income and other benefits, rights and entitlements derived from the Exchange Property shall not comprise part of the Exchange Property.

### **(b) Adjustments to the Exchange Property**

If at any time any event occurs which may result in any change in composition of the Exchange Property pursuant to paragraphs (i) to (iv) below the Issuer shall consult with the Calculation Agent,

and the Calculation Agent shall in good faith determine, on behalf of and at the expense of the Issuer, the appropriate adjustment (if any) to be made to the Exchange Property.

(i) *Sub-division, Consolidation or Redenomination*

If any Relevant Securities comprising the Exchange Property shall be sub-divided or consolidated, re-classified or re-denominated or in any other manner have their nominal or par value (or the like) changed (“**Sub-division, Consolidation or Redenomination**”) then the securities resulting from such Sub-division, Consolidation or Redenomination, so far as attributable to the Exchange Property, shall be included in the Exchange Property with effect from the date such Sub-division, Consolidation or Redenomination takes effect.

(ii) *Rights Issues*

If further Relevant Securities or other securities, or options, warrants or rights to subscribe or purchase further Relevant Securities or other securities shall be offered by way of rights to holders of Relevant Securities (for the avoidance of doubt, other than where the same constitutes a Cash Dividend) (a “**Rights Issue**”), then:

- (a) if such rights are capable of being publicly traded and can be sold by the Issuer or the relevant Chargor under applicable law and/or the terms of the Rights Issue, by not later than the latest day for accepting or taking up any such rights (for the purposes of this paragraph (a), the “**Election Date**”), the Issuer or the relevant Chargor may elect any one of the following:
  - (A) to procure on an arm’s length basis in good faith the sale by a reputable independent broker or investment bank with appropriate expertise selected and appointed by the Issuer or the relevant Chargor of sufficient rights to enable the whole of the balance of such rights to be taken up and procure the application of the proceeds of sale, after the deduction of Permitted Expenses, in the taking up of such rights, with any excess proceeds of sale (but only to the extent the Fair Market Value thereof as at the first date on which such excess proceeds as aforesaid can be determined is in excess of £100) being added to and forming part of the Exchange Property; or
  - (B) to add or procure that there is added to the Exchange Property such number (rounded down, if necessary to the nearest whole number) of Relevant Securities or other securities or options, warrants or rights as aforesaid as is determined by dividing (x) the Fair Market Value as at the Determination Date of such number of rights as would have been required to be sold (assuming for this purpose the proceeds of such sale to be the Fair Market Value (determined in accordance with Condition 8(b)(ii)(c)) of such rights as at the Determination Date, but without any deduction) to enable the balance of such rights to be taken up by (y) the exercise, subscription or purchase price (or the like) payable upon exercise of such rights; or
  - (C) to add or procure that there is added to the Exchange Property a cash amount equal to the Fair Market Value (determined in accordance with Condition 8(b)(ii)(c)) of such rights as at the Determination Date.

In the absence of any such election being notified to the Bondholders in accordance with Condition 19 and to the Trustee by not later than the Election Date, paragraph (C) immediately above shall apply.

- (b) If such rights are not capable of being publicly traded and/or sold by the Issuer under applicable law and/or the terms of the Rights Issue, by not later than the latest day for accepting or taking up any such rights (for the purposes of this paragraph (b), the “**Election Date**”), the Issuer or the relevant Chargor may elect any one of the following:
  - (A) based on advice from an Independent Adviser appointed by the Issuer or the relevant Chargor with a view to realising the value (if any) of such rights, to use any part of the Exchange Property comprising cash to take up such rights and/or procure in good faith on an arm’s length basis the sale by a reputable independent broker or investment bank with appropriate expertise selected and appointed by the Issuer or the relevant Chargor of sufficient Relevant Securities to enable (after the deduction of the Permitted Expenses) the whole (or, where any such Relevant Securities are sold (as aforesaid) *cum* such rights, the balance) of such rights to be taken up (or such lower number (which may be none) of rights as may be taken up based on the advice of such Independent Adviser) as aforesaid, with in any such case, any excess proceeds of sale (but only to the extent the Fair Market Value thereof as at the first date on which such excess proceeds as aforesaid can be determined is in excess of £100), being added to and forming part of the Exchange Property; or
  - (B) to add to the Exchange Property such number (if any) (rounded down, if necessary to the nearest whole number) of Relevant Securities of the class to which such rights relate or other securities or options, warrants or rights as aforesaid as is determined in good faith to be appropriate by an Independent Adviser to reflect the value (if any) of the rights that would have been capable of being realised by the Issuer or the relevant Chargor pursuant to paragraph (A) immediately above; or
  - (C) to add or procure that there is added to the Exchange Property a cash amount equal to the Fair Market Value (determined in accordance with Condition 8(b)(ii)(c)) of such rights as at such date as an Independent Adviser shall determine in good faith to be appropriate (but without any deduction).

In the absence of any such election being notified to the Bondholders in accordance with Condition 19 and to the Trustee by not later than the Election Date, paragraph (C) immediately above shall apply.

- (c) For the purposes of paragraph (a)(B), the Fair Market Value, on any particular day for the purposes of the relevant calculation shall be converted, if necessary, by the Calculation Agent into the currency in which the relevant exercise, subscription or purchase price (or the like) is expressed at the Prevailing Rate on such Trading Day.
- (d) In the case of paragraphs (a)(A) and (b)(A) above, any Relevant Securities or other securities or options, warrants or rights taken up pursuant to this paragraph and any excess proceeds of sale as aforesaid shall upon receipt by the Issuer or the relevant

Chargor be added to and form part of the Exchange Property. In the case of paragraphs (a)(B) and (b)(B) above, the relevant addition to the Exchange Property shall be effective on the Trading Day immediately following the relevant determination by the Calculation Agent (in the case of paragraph (a)(B)) or the Independent Adviser (in the case of paragraph (b)(B)). In the case of paragraphs (a)(C) and (b)(C) above, the relevant addition to the Exchange Property shall be effective on the Trading Day immediately following the relevant determination by the Calculation Agent (in the case of paragraph (a)(C)) or the Independent Adviser (in the case of paragraph (b)(C)).

- (e) Any rights or other property sold (or deemed to have been sold) and any cash applied as provided in paragraph (a)(A) or (b)(A) and the number of rights determined for the purpose of paragraph (a)(B)(x) shall not form or, as the case may be, shall cease to form part of the Exchange Property.
- (f) “**Determination Date**” means in the case of Condition 8(b)(ii)(a)(B), the first Trading Day on which the relevant rights may be publicly traded.

(iii) *Bonus Issues, Capital Distributions, Reorganisations and Payments*

If any of the following events occurs (each, a “**Relevant Event**”):

- (A) Relevant Securities or other securities are issued credited as fully paid to holders of Relevant Securities of a class comprised in the Exchange Property by way of capitalisation of profits or reserves or otherwise by virtue of being holders of Relevant Securities (other than where the relevant event is determined to constitute a Cash Dividend pursuant to paragraph (a) or (b) of the definition of Dividend); or
- (B) any Capital Distribution is paid or made in respect of any Shaftesbury Shares or Equity Share Capital comprised in the Exchange Property; or
- (C) a Relevant Company (or any person on behalf of or at the direction or request of, or pursuant to an arrangement with, a Relevant Company) purchases or redeems any Relevant Securities of a class comprised in the Exchange Property; or
- (D) pursuant to any scheme of arrangement, reorganisation, amalgamation, reconstruction, merger, demerger or any like or similar event of any company or companies (whether or not involving liquidation or dissolution), any further Relevant Securities or other securities, property or assets (including cash) are issued, distributed or otherwise made available to holders of Relevant Securities or other securities of a class comprised in the Exchange Property, or
- (E) any cash amount is paid or distributed in whatever manner (including by way of payment of interest, distribution, dividend, repayment of principal or capital or redemption monies) or any securities or other property is distributed, issued, transferred or delivered in whatever manner, in each case in respect of any Relevant Securities or other property or assets (in each case, other than Shaftesbury Shares or Equity Share Capital) of a class comprised in the Exchange Property,

then the further Relevant Securities, securities or other property or assets (including cash amounts) received in relation to the Relevant Event, so far as attributable to the Exchange

Property or, as the case may be, the relevant Capital Distribution in respect of the Shaftesbury Shares or Equity Share Capital comprised in the Exchange Property, shall (subject as provided in Condition 8(e)) be included as part of the Exchange Property at such time as such Relevant Securities, securities or other property or assets would in the ordinary course be received by a holder of such Relevant Securities (and, if applicable, applied in accordance with Condition 8(e)).

(iv) *Cash Dividend Shortfalls*

(A) If any Cash Dividend Shortfall shall occur, then there shall cease to be part of the Exchange Property (and the Exchange Property shall be reduced accordingly, with effect from the Effective Date) such amount of:

(aa) *first* (if the Exchange Property includes cash) cash as is equal to:

(y) (where the amount of cash included in the Exchange Property is equal to or greater than the Cash Dividend Shortfall Amount) the Cash Dividend Shortfall Amount; or

(z) (where the amount of cash included in the Exchange Property is less than the Cash Dividend Shortfall Amount) such cash amount as is so included in the Exchange Property (and, where this sub-paragraph (z) applies, the difference between the Cash Dividend Shortfall Amount and such cash amount as is so included in the Exchange Property shall be referred to herein as the “**Residual Cash Dividend Shortfall**”); and

(bb) *second* (if the Exchange Property does not include cash or where there is a Residual Cash Dividend Shortfall pursuant to paragraph (A)(aa)(z) above) Equity Share Capital of the class then comprised in the Exchange Property (and where at the relevant time the Exchange Property comprises more than one class of Equity Share Capital, an amount of Equity Share Capital of each such class on a pro rata basis (as determined by reference to the Value of each such class of Equity Share Capital comprised in the Exchange Property as at the Trading Day which immediately precedes the relevant Cash Dividend Shortfall Date)) as is determined by the Calculation Agent by dividing:

(yy) the relevant Cash Dividend Shortfall Amount or, as the case may be, the Residual Cash Dividend Shortfall (or, where at the relevant time the Exchange Property comprises more than one class of Equity Share Capital as aforesaid, in respect of each such class of Equity Share Capital, the proportion of the relevant Cash Dividend Shortfall Amount or Residual Cash Dividend Shortfall, as the case may be, determined on a pro rata basis as provided above) (converted, if necessary, by the Calculation Agent into the currency in which the Fair Market Value is determined pursuant to (zz) below at the Prevailing Rate on the Calculation Date) by

- (zz) the Fair Market Value (disregarding for this purpose proviso (A) to the definition of “Fair Market Value”) of the relevant Equity Share Capital as at the first Trading Day (for such Equity Share Capital) immediately following the Calculation Date.

The part of the Exchange Property which is determined in accordance with the provisions of this paragraph shall cease to form part of the Exchange Property is referred to in these Conditions as the “**Cash Dividend Shortfall Exchange Property Amount**”.

- (B) For the purpose of the above:

A “**Cash Dividend Shortfall**” shall occur in any Relevant Period (other than the first Relevant Period and the final Relevant Period) if:

- (i) no Cash Dividend is paid or made in such Relevant Period; or
- (ii) the Fair Market Value of the first Cash Dividend (as at the Ex-Date in respect of such Cash Dividend and in respect of a Unit of Equity Shares) paid or made in such Relevant Period (taking into account the *pro rata* proportion of any Cash Dividend in respect of any Equity Share where at any time a Unit of Equity Shares would include a fraction of any such Equity Share) is less than the Reference Amount in respect of such Relevant Period, as determined by the Calculation Agent.

“**Cash Dividend Shortfall Date**” shall be deemed to be the date of occurrence of a Cash Dividend Shortfall and means:

- (i) in respect of any Cash Dividend Shortfall pursuant to limb (i) of the definition thereof, the last day of the Relevant Period; and
- (ii) in respect of any Cash Dividend Shortfall pursuant to limb (ii) of the definition thereof, the date on which the relevant Cash Dividend is paid or made.

“**Cash Dividend Shortfall Amount**” in respect of any Cash Dividend Shortfall means:

- (i) in respect of any Cash Dividend Shortfall pursuant to limb (i) of the definition thereof, the product of the Reference Amount for the Relevant Period and the aggregate principal amount of Bonds outstanding divided by £100,000; and
- (ii) in respect of any Cash Dividend Shortfall pursuant to limb (ii) of the definition thereof, the product of:
  - (A) the difference between the Reference Amount for the Relevant Period and the Fair Market Value of the relevant Cash Dividend (as at the Ex-Date in respect of such relevant Cash Dividend and in respect of a Unit of Equity Shares), as determined by the Calculation Agent (taking into account the *pro rata* proportion of any such Cash Dividend in respect of any Equity Share where at any time a Unit of Equity Shares would include a fraction of any such Equity Share); and
  - (B) the aggregate principal amount of Bonds outstanding divided by £100,000.

“**Calculation Date**” means, for the purpose of this Condition 8(b)(iv), the Trading Day immediately following the Cash Dividend Shortfall Date.

“**Effective Date**” means (where sub-paragraph (A)(bb) of this Condition 8(b)(iv) applies) the first day on which the Fair Market Value referred to in sub-paragraph (A)(bb)(zz) of this Condition 8(b)(iv) is capable of being determined in accordance with the definition thereof or (where sub-paragraph (A)(aa)(y) of this Condition 8(b)(iv) applies) the Cash Dividend Shortfall Date.

(c) ***Notice of Change in Exchange Property***

The Issuer shall give notice to the Trustee and to the Bondholders in accordance with Condition 19 and to the Principal Paying, Transfer and Exchange Agent of any change in composition of the Exchange Property as soon as reasonably practicable following such change, and, at the same time, shall give such details as the Trustee may require of the Exchange Property per Bond to which the holder of £100,000 principal amount of Bonds would be entitled upon exercise of the Exchange Right in respect of such Bond following such change.

(d) ***Reduction in Exchange Property upon exercise of Exchange Rights, Redemption or Purchase and Cancellation of the Bonds***

Upon delivery of the full amount of the Exchange Property required to be delivered and/or payment of the Cash Alternative Amount pursuant to these Conditions on an exercise of Exchange Rights or upon any redemption or purchase and cancellation of the Bonds, the Exchange Property per Bond (determined as at the date for determining the Exchange Property per Bond in respect of the relevant exercise of Exchange Rights or, in the case of a redemption of the Bonds, as at the relevant Optional Redemption Date or, in the case of a purchase and cancellation, as at the date of cancellation of the relevant Bonds) in respect of the relevant Bonds (all as determined by the Calculation Agent) shall cease to be part of the Exchange Property and the Exchange Property shall be reduced accordingly.

(e) ***Purchase of Relevant Securities etc.***

Subject as provided in the last paragraph of this Condition 8(e), if at any time Equity Share Capital is comprised in the Exchange Property and any cash amount or securities or other property is comprised in or is to be added to and form part of the Exchange Property pursuant to these Conditions (other than (i) any additional Equity Share Capital of a class already comprised in the Exchange Property or (ii) as included in the Consideration) before the Exchange Rights lapse, then the Issuer, in its sole discretion, may elect (by notifying the Bondholders in accordance with Condition 19 and the Trustee, and any such notice, a “**Purchase Election Notice**” in respect of the relevant cash amount or securities or other property) by no later than 5.00 p.m. (London time) on the Purchase Election Date that such cash amount or securities or other property shall not be added to or form part of the Exchange Property and instead there shall be added to the Exchange Property such additional Equity Share Capital of the class then comprised in the Exchange Property (and where at the relevant time the Exchange Property comprises more than one class of Equity Share Capital, further Equity Share Capital of each such class on a *pro rata* basis (as determined by reference to the Value of each such class of Equity Share Capital comprised in the Exchange Property as at the Trading Day which immediately precedes the date on which the relevant cash amount or securities or other property would otherwise be added to the Exchange Property pursuant to these Conditions)) as is determined by the Calculation Agent by dividing (x) the Fair Market Value of such cash amount or securities or other property (or, where at the



relevant time the Exchange Property comprises more than one class of Equity Share Capital as aforesaid, in respect of each such class of Equity Share Capital, the proportion of the Fair Market Value of such cash amount or other property determined on a *pro rata* basis as provided above) as at the date (for the purpose of this paragraph, the “**Calculation Date**”) which is the Trading Day immediately following the date on which the relevant cash amount or securities or other property would otherwise be added to the Exchange Property pursuant to these Conditions (converted, if necessary, by the Calculation Agent into the currency in which the Fair Market Value is determined pursuant to (y) below at the Prevailing Rate on such Trading Day) by (y) the Fair Market Value (disregarding for this purpose proviso (A) to the definition of “Fair Market Value”) of the relevant Equity Share Capital as at the first Trading Day (for such Equity Share Capital) immediately following (AA) the Calculation Date or (BB) if later, the first day on which the Fair Market Value of such cash amount or securities or other property can be determined as aforesaid.

If the Issuer does not elect, in its sole discretion, by 5.00 p.m. (London time) on the Purchase Election Date to purchase Equity Share Capital in accordance with the immediately preceding paragraph, such cash amount or securities or other property shall be added to and form part of the Exchange Property. Any cash amount which is added to and form part of the Exchange Property shall, if necessary, be converted into sterling at the Prevailing Rate prevailing on the date of receipt of such cash amount and such cash amount shall remain comprised in the Exchange Property and the Issuer shall not apply any such amount in purchasing an additional or further Equity Share Capital or any other property or assets. No interest shall accrue on or in respect of any such cash amount.

For the purpose of these Conditions, “**Purchase Election Date**” means the date falling three London business days prior to the date on which the Relevant Securities, securities or other property or assets required to be added to the Exchange Property pursuant to Condition 8(b)(iii) would in the ordinary course be received by a holder of such Relevant Securities.

**(f) *Voting Rights etc.***

Bondholders and the Trustee shall have no voting rights in respect of the Shaftesbury Shares or any other part of the Exchange Property prior to their delivery or transfer to the relevant Bondholder (or as it may direct).

In (i) exercising any voting rights attaching to the Shaftesbury Shares and/or other Relevant Securities that it may have or making any such election to which it may be entitled and/or (ii) in entering into any arrangement or transaction which involves or otherwise has an effect on Shaftesbury and/or any other issuer of Relevant Securities, none of the Issuer or the Chargors is obliged to take account of the interests of the Bondholders and it is therefore possible that the Issuer or (as the case may be) the relevant Chargor may act in a manner which is contrary to or may not be in the best interests of the Bondholders.

**(g) *Other Adjustments to the Exchange Property and Contemporaneous Events***

If the Issuer (having consulted with the Calculation Agent) determines that:

- (i) an adjustment should be made to the Exchange Property as a result of one or more events or circumstances not referred to in Condition 8(b)(i), 8(b)(ii) or 8(b)(iii), even if the relevant event is or circumstances are specifically excluded from the operation of Condition 8(b)(i), 8(b)(ii) or 8(b)(iii); or

- (ii) more than one event which gives rise or may give rise to an adjustment to the Exchange Property has occurred or will occur within such a short period of time that a modification to the operation of the adjustment provisions is required in order to give the intended result; or
- (iii) one event which gives rise or may give rise to more than one adjustment to the Exchange Property has occurred or will occur such that a modification to the operation of the adjustment provisions is required in order to give the intended result,

the Issuer shall, at its own expense and acting reasonably, request an Independent Adviser, acting as an expert, to determine as soon as practicable what adjustment (if any) to the Exchange Property is fair and reasonable to take account thereof and the date on which such adjustment should take effect and upon such determination the Issuer shall procure that such adjustment (if any) shall be made and shall take effect in accordance with such determination, provided that an adjustment shall only be made pursuant to this Condition 8(g) if such Independent Adviser is so requested to make such determination in writing not more than 21 days after the occurrence of the relevant event or circumstance and provided that such adjustment shall result in an increase to the Exchange Property.

**(h) *Decision of an Independent Adviser or the Calculation Agent***

Adjustments to the Exchange Property pursuant to this Condition 8 or Condition 9 shall be determined and calculated in good faith by the Calculation Agent and/or to the extent so specified in the Conditions, in good faith by an Independent Adviser. Any calculation or determination performed or made or any matter or (in the case of the Independent Adviser) opinion considered, by the Calculation Agent or an Independent Adviser, as the case may be, for the purposes of these Conditions shall in each case be made in good faith and shall be final and binding (in the absence of manifest error) on the Issuer, the Trustee, the Bondholders and the Paying, Transfer and Exchange Agents. The Calculation Agent may consult, at the expense of the Issuer, on any matter, obtain the advice or engage the services of any lawyers, accountants, investment banks or other experts whose advice or services the Calculation Agent may, acting properly, deem necessary, and the Calculation Agent shall be able to rely upon, and shall not be liable and shall incur no liability as against the Issuer, the Trustee or the Bondholders in respect of anything done, or omitted to be done, relating to that matter in good faith in accordance with, any written opinion so obtained. The Calculation Agent or, as the case may be, an Independent Adviser appointed by the Issuer in accordance with these Conditions is acting exclusively as an agent for the Issuer and upon the request of the Issuer, and in accordance with the Conditions, and will not thereby assume any relationship of agency or trust with, and shall not incur any liability as against, the Trustee or the Bondholders. Neither the Trustee, the Paying, Transfer and Exchange Agents, the Registrar nor the Calculation Agent shall be under any duty to monitor whether any event or circumstance has happened or exists or may happen or exist and which requires or may require an adjustment to be made to the Exchange Property and will not be responsible or liable to any person for any loss arising from any failure by it to do so. Neither the Trustee, the Paying, Transfer and Exchange Agents nor the Registrar shall be responsible or liable to any person in relation to the determination or calculation of any such adjustment.

If any doubt shall arise as to whether an adjustment falls to be made to the Exchange Property, or as to the appropriate adjustment to the Exchange Property, or as to when such adjustment shall take effect or be deemed to have taken effect, the Issuer shall appoint an Independent Adviser to make a determination in good faith in respect thereof and, in the absence of manifest error and following consultation between the Issuer and the Independent Adviser, the written determination of the

Independent Adviser in respect thereof shall be conclusive and binding on the Issuer, the Bondholders and the Trustee.

(i) ***Construction***

Where any provision of these Conditions relates to any right or entitlement in or conferred in respect of any Relevant Securities, Shaftesbury Shares or Equity Share Capital or to the receipt or receiving of any asset, property, rights or entitlement in respect of any of them (each of the foregoing being referred to as an “**Entitlement**”), but where a legal impediment or restriction exists in relation to any such Entitlement as a result of the Issuer’s (or, as the case may be, the relevant Chargor’s) ownership or other entitlement in respect of such Relevant Securities, Shaftesbury Shares or Equity Share Capital, then such provision of these Conditions shall be construed for the purposes of these Conditions as if such impediment or restriction did not exist.

## **9 General Offers and Schemes of Arrangement**

(a) ***Acceptance***

In the event of an Offer for, or Scheme of Arrangement in respect of, any Equity Shares of a class comprised in the Exchange Property, the Issuer or (as the case may be) the relevant Chargor shall have absolute discretion to accept such Offer or reject such Offer, or to vote or not to vote in respect of such Scheme of Arrangement (and as to any alternative consideration), provided that the Issuer will, or will procure that the relevant Chargor will, not accept such Offer prior to the Specified Date in respect thereof.

For the avoidance of doubt, (i) the Issuer or the relevant Chargor may announce its intention to accept any Offer prior to the Specified Date, (ii) the Issuer or the relevant Chargor may enter into an undertaking to accept any Offer, where the undertaking is entered into prior to the Specified Date but actual acceptance of such offer only occurs on or after the Specified Date (and may announce the same) and (ii) if there is more than one simultaneous Offer, the Issuer or the relevant Chargor may accept any such Offer (including the Offer which includes the lowest consideration) or none of such Offers.

The value of such Equity Shares and the value of any type of consideration will be determined by an Independent Adviser by reference to market values, where applicable, and such other considerations as the Independent Adviser shall consider appropriate and any such determination (save in the case of manifest error) shall be final and conclusive.

The Issuer will not, and will procure that any relevant Chargor will not, accept any Offer in respect of such part of the Exchange Property which would (disregarding for this purpose any Cash Election) be deliverable to those Bondholders who have exercised Exchange Rights in respect of Bonds where the relevant Exchange Date falls prior to the commencement of any Suspension Period.

In the case of a Scheme of Arrangement, the Issuer will not, and will procure that any relevant Chargor will not, exercise any voting rights in respect of such part of the Exchange Property which would (disregarding for this purpose any Cash Election) be deliverable to those Bondholders who have exercised Exchange Rights in respect of Bonds prior to the suspension of the Exchange Rights as provided below.

Save as otherwise provided in this Condition 9(a), the Issuer or the relevant Chargor shall at all times be entitled at its discretion, in relation to any shares or other securities owned or controlled by it or in respect of which it is entitled to exercise voting rights (whether or not such shares or securities comprise Exchange Property), to vote on, exercise its rights in respect of, or otherwise participate in (or in any such case refrain from doing so), any Scheme of Arrangement, reorganisation, amalgamation, merger, demerger or reconstruction of any company or companies or other entity or entities (whether or not involving liquidation or dissolution) as it thinks fit.

The Issuer or the relevant Chargor shall give notice to the Trustee and the Bondholders in accordance with Condition 19 upon becoming aware of the existence of any Offer or any Scheme of Arrangement.

In accepting or rejecting any Offer or electing for any alternative consideration or in voting on, exercising its rights in respect of, or otherwise participating in, any Scheme of Arrangement, compromise, reorganisation, amalgamation, merger, demerger or reconstruction, the Issuer or the relevant Chargor is not obliged to take account of the interests of the Bondholders and accordingly the Issuer or the relevant Chargor may act in a manner which is contrary to the best interests of the Bondholders.

(b) ***Adjustment to Exchange Property***

If, in the case of an Offer made by a person other than the Issuer, a Chargor or a member of the Group (as defined in Condition 14) (other than another person acting together with the Issuer, the Chargor or a member of the Group as referred to in the next paragraph), the Issuer or the relevant Chargor accepts such Offer and the Offer becomes unconditional in all respects (or if all the Equity Shares not tendered in relation to the relevant Offer are subject to compulsory acquisition) or if a Scheme of Arrangement becomes effective then, with effect from the Consideration Date, the Equity Shares the subject of such Offer or Scheme of Arrangement or compulsory acquisition shall be deemed no longer to form part of the Exchange Property and shall be deemed to be replaced by the consideration in respect of the Equity Shares subject to the Offer or pursuant to such compulsory acquisition or Scheme of Arrangement or, if there is alternative consideration, such consideration as the Issuer or the relevant Chargor may elect for the purposes of these Conditions, and if the Issuer or the relevant Chargor shall fail to make such election by not later than five London business days prior to the Final Date in respect of the relevant Offer or Scheme of Arrangement, that consideration as shall be determined by an Independent Adviser to have the greatest value as at the Final Date (the “**Consideration**”).

If, in the case of an Offer made (directly or indirectly) by the Issuer, a Chargor or a member of the Group (or by the Issuer, a Chargor or a member of the Group together with another person or persons), such Offer becomes unconditional in all respects (or if all the Equity Shares not tendered in relation to the relevant Offer are subject to compulsory acquisition (directly or indirectly) by the Issuer, the Chargor or a member of the Group (or by the Issuer, a Chargor or a member of the Group together with another person or persons)) or if a Scheme of Arrangement becomes effective (in the case of a Scheme of Arrangement that results in the acquisition (directly or indirectly) by the Issuer, a Chargor or a member of the Group (or by the Issuer, a Chargor or a member of the Group together with another person or persons) of all or a majority of the Equity Shares) then, with effect from the Consideration Date, the Equity Shares the subject of such Offer or Scheme of Arrangement or compulsory acquisition shall be deemed no longer to form part of the Exchange Property and shall be deemed to be replaced by the consideration receivable (for a number of Equity Shares equal to the number of Equity Shares comprised in the Exchange Property) in respect of the relevant Offer or Scheme of Arrangement or, if

there is alternative consideration, such consideration as shall be determined by an Independent Adviser to have the greatest value as at the Final Date (and references in these Conditions to “Consideration” shall be construed accordingly).

(c) ***Suspension of Exchange Rights***

The Exchange Rights shall be suspended (i) in the case of an Offer, during the period from and including the Specified Date up to and including the date that the relevant Offer is withdrawn or the relevant Offer lapses or the Final Acceptance Date or, if earlier, the Final Date and (ii) in the case of a Scheme of Arrangement, during the period from and including the date falling five Trading Days in respect of the relevant Equity Shares prior to the last date for submitting proxies (or the like) for the purposes of a meeting of the holders of the relevant Equity Shares to approve the relevant Scheme of Arrangement up to and including the date the relevant Scheme of Arrangement is or becomes effective in accordance with applicable law, or is rejected by any relevant judicial or other authority or by the holders of the relevant Equity Shares or, if earlier, the date on which the relevant meeting is cancelled.

If the Issuer or the relevant Chargor accepts the relevant Offer and the Offer is or becomes unconditional in all respects, Exchange Rights will also be suspended during the period from and including the Final Acceptance Date, or if earlier, the Final Date, to and including the Consideration Date.

If the relevant Scheme of Arrangement is or becomes effective in accordance with applicable law, Exchange Rights will also be suspended during the period from and including the Final Date to and including the Consideration Date.

The period during which Exchange Rights are suspended pursuant to this Condition 9(c) is referred to as the “**Suspension Period**”.

Notice of any such Suspension Period (including the commencement and termination thereof) will be given by the Issuer to the Trustee, the Principal Paying, Transfer and Exchange Agent and to the Bondholders in accordance with Condition 19.

If Exchange Rights are exercised such that the relevant Exchange Date would otherwise fall in the Suspension Period, such exercise shall be null and void.

(d) ***Premium Compensation Amount***

If the Consideration consists wholly or partly of cash such cash or such other property (other than Eligible Equity Shares) shall be added to and form part of the Exchange Property and if the Exchange Date in respect of any Bond falls after the Consideration Date in respect of such Offer or Scheme of Arrangement, then the relevant Bondholder shall be entitled to receive, in addition to the Exchange Property per Bond pursuant to Condition 7 (or, as appropriate, any Cash Alternative Amount), an amount (the “**Premium Compensation Amount**”) in respect of each £100,000 principal amount of Bonds surrendered for exchange calculated by the Calculation Agent in accordance with the following formula:

$$PCA = K^2 * (\text{Principal} - IP) * (T/C) * (CB/(CB+CS))$$

Where:

PCA = Premium Compensation Amount per Bond

K	=	the lesser of (a) IP/MP and (b) MP/IP
Principal	=	£100,000
IP	=	£74,074.07
CB	=	the Offered Cash Amount
CS	=	the Offered Property Value
MP	=	the Value of the Exchange Property per Bond in respect of a Bond in the principal amount of £100,000 on the Final Acceptance Date
C	=	1,946 days, being the number of days from (but excluding) the Closing Date to (and including) the Final Maturity Date
T	=	the number of days from (but excluding) the Final Acceptance Date to (and including) the Final Maturity Date (which shall be zero if the Final Acceptance Date occurs after such date)

The provisions of this Condition 9 shall apply *mutatis mutandis* to any subsequent Offer or Scheme of Arrangement, with the result that such Bondholder may become entitled to receive more than one Premium Compensation Amount.

Any Premium Compensation Amount payable on exercise of Exchange Rights shall be paid by not later than the relevant Settlement Date by transfer to a sterling account with a bank in London in accordance with instructions contained in the relevant Exchange Notice.

If any doubt shall arise as to the calculation of the Premium Compensation Amount, and following consultation between the Issuer and an Independent Adviser, a written opinion of such Independent Adviser in respect thereof shall be conclusive and binding on the Issuer, the Calculation Agent, the Trustee and the Bondholders, save in the case of manifest error.

## 10 Undertakings

- (a) The Issuer undertakes to use all reasonable endeavours to obtain prior to the first Interest Payment Date a listing of the Bonds on a recognised stock exchange (within the meaning of Section 1005 of the Income Tax Act 2007) or the admission to trading of the Bonds on a “multilateral trading facility” operated by an EEA-regulated recognised stock exchange (within the meaning of Sections 987 and 1005 of the Income Tax Act 2007) or, on and following the IP Completion Day (as such term is defined in the European Union (Withdrawal Agreement) Act 2020), operated by a regulated recognised stock exchange (within the meaning of Sections 1005 and 987 of the Income Tax Act 2007) (a “**MTF**”) and thereafter maintain such listing or admission to trading, provided that if the Issuer determines in good faith that it can no longer comply with its requirements for such listing or admission to trading, having used such endeavours, or if the maintenance of such listing or admission to trading is unduly onerous, the Issuer will instead use all reasonable endeavours to obtain and maintain a listing and/or admission to trading on such other stock exchange (being a recognised stock exchange (as such term is defined in Section 1005 of the Income Tax Act 2007) or a MTF as the Issuer may (with the written approval of the Trustee) decide, and shall also upon obtaining a quotation or listing of the Bonds on such other stock exchange or exchanges enter into a deed supplemental to the Trust Deed to effect such

consequential amendments to the Trust Deed as the Trustee may require and as shall be requisite to comply with the requirements of any such stock exchange.

- (b) The Issuer undertakes to obtain and/or maintain, and shall procure that each Chargor shall obtain and maintain, all applicable consents and approvals which are required for the performance of its obligations under the Bonds, the Trust Deed, the Security Agreements and the Custody Agreements.
- (c) If a payment calculated by reference to the Realisation Proceeds is to be made pursuant to these Conditions, the Issuer shall procure that the relevant sale is made as soon as reasonably practicable and in any event in such time to enable the relevant payment to be made by the time specified in these Conditions.
- (d) If the appointment of an Independent Adviser is required by these Conditions or if these Conditions relate to any matter to be determined by an Independent Adviser, the Issuer shall procure that the relevant appointment is made promptly and, in any event, in time to enable the proper operation of the relevant provisions of these Conditions.
- (e) By no later than the Closing Date, the Issuer shall (i) publish a copy of these Conditions (including a legend regarding the intended target market for the Bonds) on its website and (ii) thereafter (and for so long as any of the Bonds remain outstanding maintain the availability of these Conditions (as the same may be amended in accordance with their terms) on such website.
- (f) In addition to its obligations in respect of Stamp Taxes on the transfer or delivery of any Exchange Property under Condition 7(b), the Issuer undertakes to bear and pay any Stamp Taxes assessable or payable in the United Kingdom, Belgium or Luxembourg, including interest and penalties arising in respect thereof, payable on or in connection with the creation, issue and initial delivery of the Bonds.
- (g) *Consolidation, Amalgamation and Merger*

In the case of any consolidation, amalgamation or merger of the Issuer with any other entity (other than a consolidation, amalgamation or merger in which the Issuer is the continuing entity) or the transfer or distribution (whether on a winding-up or dissolution of the Issuer or otherwise) by the Issuer of all or substantially all its assets to another entity (any such entity, a “**Successor in Business**” and any such consolidation, amalgamation or merger or transfer or distribution of assets a “**Succession in Business**”), the Issuer will forthwith give notice thereof to the Bondholders and to the Trustee of such event and will take such steps as shall be required, subject to applicable law and as provided in the Trust Deed (including the execution of a deed supplemental to or amending the Trust Deed and/or any other Transaction Document):

- (i) to ensure that the Successor in Business is substituted in place of the Issuer as the principal debtor under the Bonds and the Trust Deed;
- (ii) to ensure that each Bond then outstanding will (during the period in which Exchange Rights may be exercised) continue to be exchangeable for the Exchange Property per Bond or a Cash Alternative Amount, subject to and as provided in these Conditions; and
- (iii) to ensure that the Trust Deed and the Transaction Documents (as so amended or supplemented, if applicable) and the Conditions provide at least the same or equivalent powers, protections, rights and benefits to the Trustee and the Bondholders following the implementation of such

Succession in Business as they provided to the Trustee and the Bondholders prior to the implementation of the Succession in Business, *mutatis mutandis*.

The satisfaction of the requirements set out in subparagraphs (i), (ii) and (iii) of this Condition 10(g) is herein referred to as a “**Permitted Cessation of Business**”. Notwithstanding any other provision of these Conditions, a Permitted Cessation of Business shall not result in a breach of undertaking, constitute an Event of Default or otherwise result in any breach of any provision of these Conditions or the Trust Deed or any other Transaction Document. Following the occurrence of a Permitted Cessation of Business, references in these Conditions, the Trust Deed, the Agency Agreement and any other Transaction Document to the “Issuer” will be construed as references to the relevant Successor in Business.

At the request of the Issuer, but subject to the Issuer’s compliance with the provisions of this Condition 10(g), the Trustee shall (at the expense of the Issuer), without the requirement for any consent or approval of the Bondholders or any other Secured Party, be obliged to concur with the Issuer in effecting any Permitted Cessation of Business (including, *inter alia*, the execution of a deed supplemental to or amending the Trust Deed and any other Transaction Document), provided that the Trustee shall not be obliged so to concur if in the opinion of the Trustee doing so would be contrary to any law or regulation in any jurisdiction or would impose more onerous obligations upon it or expose it to any additional duties, responsibilities or liabilities or reduce or amend the protective provisions afforded to the Trustee in these Conditions, the Trust Deed, the Agency Agreement or any other Transaction Document (including, for the avoidance of doubt, any document supplemental thereto).

The above provisions of this Condition 10(g) will apply, *mutatis mutandis*, to any subsequent consolidations, amalgamation or mergers or transfers or distributions of assets.

## **11 Redemption and Purchase**

### **(a) Final Redemption**

Unless previously exchanged, redeemed, or purchased and cancelled, the Bonds will be redeemed at their principal amount on the Final Maturity Date.

The Bonds may only be redeemed at the option of the Issuer prior to the Final Maturity Date in accordance with Condition 11(b) or 11(c) and may only be redeemed by Bondholders prior to the Final Maturity Date in accordance with Condition 11(d).

### **(b) Redemption at the Option of the Issuer**

The Bonds may be redeemed at the option of the Issuer in whole, but not in part, at their principal amount together with accrued interest to (but excluding) the relevant date fixed for redemption:

- (i) at any time on or after 20 April 2024 (the “**First Call Date**”), provided that the Value of the Exchange Property per Bond attributable to each £100,000 principal amount of Bonds on each of not less than 20 Trading Days in any period of 30 consecutive Trading Days ending not earlier than the tenth London business day prior to the date on which the relevant notice of redemption is given by the Issuer to the Bondholders shall have exceeded £130,000, as verified by the Calculation Agent upon request by the Issuer; or
- (ii) at any time if, prior to the date on which the relevant notice of redemption is given, Exchange Rights shall have been exercised and/or purchases (and corresponding cancellations) and/or



redemptions effected in respect of 85 per cent. or more in principal amount of the Bonds originally issued (which shall for this purpose include any Further Bonds); or

- (iii) on a date falling not less than 60 nor more than 90 days following the relevant Consideration Date, in the event of an Offer or Scheme of Arrangement relating to the Predominant Equity Share Capital where the Consideration consists wholly of cash.

In order to exercise such option, the Issuer shall give not less than 30 nor more than 60 days' notice (an "**Optional Redemption Notice**") to the Bondholders in accordance with Condition 19 specifying the date for redemption (the "**Optional Redemption Date**"), which shall be a London business day.

Any Optional Redemption Notice shall be irrevocable.

On the Optional Redemption Date, the Issuer shall redeem the Bonds at their principal amount together with accrued interest to (but excluding) the relevant date fixed for redemption.

Any Optional Redemption Notice shall specify (i) the Optional Redemption Date, which shall be a London business day, (ii) the last day on which Exchange Rights may be exercised by a Bondholder and (iii) the Value of the Exchange Property per Bond attributable to each £100,000 principal amount of Bonds as at the most recent practicable date prior to the giving of the relevant Optional Redemption Notice (converted, if necessary, into sterling at the Prevailing Rate as at such date).

**(c) Redemption for Taxation Reasons**

Provided the Bonds have been (even if they no longer remain) listed on a recognised stock exchange (within the meaning of Section 1005 of the Income Tax Act 2007) or admitted to trading on a MTF, the Issuer may, at any time, having given not less than 30 nor more than 60 days' notice (a "**Tax Redemption Notice**") to the Bondholders redeem (subject to the second following paragraph) all but not some only of the Bonds for the time being outstanding on the date (the "**Tax Redemption Date**") specified in the Tax Redemption Notice at their principal amount, together with accrued but unpaid interest to (but excluding) such date, if (i) the Issuer satisfies the Trustee immediately prior to the giving of such notice that the Issuer has or will become obliged to pay additional amounts pursuant to Condition 13 as a result of any change in, or amendment to, the laws or regulations of the United Kingdom or any political subdivision or any authority thereof or therein having power to tax, or any change in the general application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after 19 November 2020, and (ii) such obligation cannot be avoided by the Issuer taking reasonable measures available to it, provided that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts were a payment in respect of the Bonds then due. Prior to the publication of any notice of redemption pursuant to this paragraph, the Issuer shall deliver to the Trustee (a) a certificate signed by two directors of the Issuer stating that the obligation referred to in (i) above has arisen and cannot be avoided by the Issuer taking reasonable measures available to it and (b) an opinion of independent legal or tax advisers of recognised international standing to the effect that such change or amendment has occurred and that the Issuer has or will be obliged to pay such additional amounts as a result thereof (irrespective of whether such amendment or change is then effective) and the Trustee shall accept without any further inquiry and without any liability for so doing such certificate and opinion as sufficient evidence of the matters set out in (i) and (ii) above, in which event such certificate shall be conclusive and binding on the Bondholders.

On the Tax Redemption Date, the Issuer shall (subject to the next following paragraph) redeem the Bonds at their principal amount, together with accrued but unpaid interest to (but excluding) such date.

If the Issuer gives a Tax Redemption Notice, each Bondholder will have the right to elect that his Bonds shall not be redeemed and that the provisions of Condition 13 shall not apply in respect of any payment of interest to be made on such Bonds by the Issuer which falls due after the relevant Tax Redemption Date, whereupon no additional amounts shall be payable by the Issuer in respect thereof pursuant to Condition 13 and payment in respect of all amounts of such interest on such Bonds shall be made subject to the deduction or withholding of any United Kingdom taxation required to be withheld or deducted. To exercise such right, the holder of the relevant Bond must complete, sign and deposit at the specified office of any Paying, Transfer and Exchange Agent a duly completed and signed notice of election, in the form for the time being current, obtainable from the specified office of any Paying, Transfer and Exchange Agent together with the relevant Bonds on or before the day falling 10 days prior to the Tax Redemption Date.

**(d) *Redemption at the Option of Bondholders upon a Change of Control***

Following the occurrence of a Change of Control, the holder of each Bond will have the right to require the Issuer to redeem that Bond on the Change of Control Put Date at its principal amount, together with accrued and unpaid interest to (but excluding) such date. To exercise such right, the holder of the relevant Bond must deliver such Bond to the specified office of any Paying, Transfer and Exchange Agent, together with a duly completed and signed notice of exercise in the form for the time being current obtainable from the specified office of any Paying, Transfer and Exchange Agent (a “**Change of Control Put Exercise Notice**”), at any time during the Change of Control Period. The “**Change of Control Put Date**” shall be the fourteenth London business day after the expiry of the Change of Control Period.

Payment in respect of any such Bond shall be made by transfer to a sterling account with a bank in London as specified by the relevant Bondholder in the relevant Change of Control Put Exercise Notice.

A Change of Control Put Exercise Notice, once delivered, shall be irrevocable and the Issuer shall redeem all Bonds the subject of Change of Control Put Exercise Notices delivered as aforesaid on the Change of Control Put Date.

Within 14 days following the occurrence of a Change of Control, the Issuer shall give notice thereof to the Trustee and to the Bondholders in accordance with Condition 19 (a “**Change of Control Notice**”). The Change of Control Notice shall contain a statement informing Bondholders of their entitlement to exercise their Exchange Rights as provided in these Conditions and their entitlement to exercise their rights to require redemption of their Bonds pursuant to this Condition 11(d).

The Change of Control Notice shall also specify:

- (i) all information material to Bondholders concerning the Change of Control;
- (ii) the last day of the Change of Control Period;
- (iii) the Change of Control Put Date; and
- (iv) such other information relating to the Change of Control as the Trustee may require.

The Trustee shall not be required to take any steps to monitor or ascertain whether a Change of Control or any event which could lead to a Change of Control has occurred or may occur and will not be responsible or liable to Bondholders or any other person for any loss arising from any failure or delay by it to do so.

**(e) *Multiple Notices***

If more than one notice of redemption is given pursuant to this Condition 11, the first of such notices to be given shall prevail.

**(f) *Purchase***

The Issuer or any of its Subsidiaries may at any time purchase Bonds in the open market or otherwise at any price. The Bonds so purchased, while held by or on behalf of the Issuer or any of its Subsidiaries, shall not entitle the holder to vote at any meetings of the Bondholders and shall not be deemed to be outstanding for the purposes of calculating quorums at meetings of the Bondholders or for the purposes of Conditions 14 and 16.

**(g) *Cancellation***

Bonds purchased by the Issuer or any of its Subsidiaries may be held, re-issued (in the case of the Issuer) or sold or cancelled. All Bonds redeemed or exchanged will be cancelled and may not be re-issued or resold.

## **12 Payments**

**(a) *Payment***

Payment of principal in respect of the Bonds, payment of accrued interest payable on a redemption of the Bonds and payment of any interest due on an Interest Payment Date in respect of the Bonds will be made to the persons shown in the Register at the close of business on the Record Date.

Payment of all other amounts will be made as provided in these Conditions.

**(b) *Method of Payment***

Each payment referred to in Condition 12(a) will be made in sterling by transfer to a sterling account maintained by the payee with a bank in London.

**(c) *Record Date***

“**Record Date**” means the fifth business day, in the place of the specified office of the Registrar, before the due date for the relevant payment.

*All payments in respect of Bonds represented by the Global Bond will be made to, or to the order of, the person whose name is entered on the Register at the close of business on the Clearing System Business Day immediately prior to the date for payment, where “Clearing System Business Day” means Monday to Friday inclusive except 25 December and 1 January.*

**(d) *Agents***

The names of the initial Paying, Transfer and Exchange Agents, Custodian and Registrar and their initial specified offices are set out below. The Issuer reserves the right under the Agency Agreement at

any time, with the prior written approval of the Trustee, to remove any Paying, Transfer and Exchange Agent and the Registrar, and to appoint other or further Paying, Transfer and Exchange Agents or Registrar, provided that it will at all times (A) maintain Paying, Transfer and Exchange Agents having specified offices in any place required by the rules of any relevant stock exchange if and for so long as the Bonds are listed or admitted to trading on any stock exchange or admitted to listing by any other relevant authority for which the rules require the appointment of a Paying, Transfer and Exchange Agent in any particular place and (B) maintain a Registrar with a specified office outside the United Kingdom.

Each Chargor reserves the right under the Custody Agreements at any time, with the prior written approval of the Trustee, to remove a Custodian, and to appoint a replacement or additional Custodians, provided that, for so long as Secured Property is required to be held by a Custodian pursuant to these Conditions, the Issuer shall procure that a Custodian is maintained by it or one of its Subsidiaries.

Notice of any such removal or appointment and of any change in the specified office of any Paying, Transfer and Exchange Agent, Custodian or the Registrar will be given as soon as practicable to Bondholders in accordance with Condition 19.

The Trustee shall have the right to approve, without the consent or approval of Bondholders or any other Secured Party; (i) any removal of a Custodian or any appointment of a replacement or additional Custodian in circumstances where a Custodian notifies the Issuer or any Chargor that it is unwilling or unable (for whatever reason) to hold Shaftesbury Shares and/or other Relevant Securities and/or other property and/or assets (including cash amounts) which may be comprised in the Exchange Property from time to time in accordance with these Conditions; (ii) any transfer of Secured Property between Custody Accounts that is necessary or expedient in connection with such appointment or removal of a Custodian and/or (iii) (where any cash amount or securities or other property is to be added to and form part of the Exchange Property pursuant to these Conditions) the crediting of such cash, securities or other property to one or more Custody Accounts.

Upon the appointment of a replacement or additional Custodian pursuant to this Condition 12(d), if no Secured Property remains to be held by the previous Custodian, such Custodian will immediately cease to be a Custodian for the purpose of these Conditions and the Transaction Documents and the Security in connection therewith shall be immediately released. The removal of a Custodian pursuant to this Condition 12(d) is subject to the Trustee being satisfied that the interests of the Bondholders will not be materially prejudiced by the removal of such Custodian.

The Trustee shall (at the expense of the Issuer) use its reasonable endeavours to co-operate with the Issuer (including, but not limited to, entering into such documents or deeds (if any) as may be necessary) to give effect to such addition or removal of a Custodian, including approving, without the need for the consent or approval of the Bondholders or any Secured Party, such amendments to these Conditions and/or the Transaction Documents as the Trustee considers necessary or expedient in connection with such addition or removal (which may include the entry into by the new Custodian of a Custody Agreement and/or Security Agreement and/or other security document, in each case on terms satisfactory to the Trustee).

The Issuer also reserves the right under the Calculation Agency Agreement at any time to vary or terminate the appointment of the Calculation Agent, provided that it will maintain a Calculation Agent, which shall be a financial institution of international repute or a financial adviser with appropriate

expertise. Notice of any change in the Calculation Agent will be given as soon as practicable to Bondholders in accordance with Condition 19 and to the Trustee.

**(e) *Payments subject to fiscal laws***

All payments in respect of the Bonds are subject in all cases to (i) any applicable fiscal or other laws and regulations applicable thereto in the place of payment, but without prejudice to Condition 13 and (ii) any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986 (the “**Code**”) or otherwise imposed pursuant to FATCA or any law implementing an intergovernmental approach to FATCA (in each case without prejudice to the provisions of Condition 13). No commissions or expenses shall be charged to the Bondholders in respect of such payments.

**(f) *Fractions***

When making payments to Bondholders, if the relevant payment is not of an amount which is a whole multiple of the smallest unit of the relevant currency in which such payment is to be made, such payment will be rounded down to the nearest such unit.

**(g) *Delay in payment***

If the due date for any payment in respect of any Bond is not a business day, the holder will not be entitled to the relevant payment until the next day which is a business day and Bondholders will not be entitled to any further interest or other payment for any delay after the due date in receiving any amount due as a result of the due date not being a business day.

In this Condition 12(g) “**business day**” means a day (other than a Saturday or Sunday) which is a London business day.

## **13 Taxation**

All payments made by or on behalf of the Issuer in respect of the Bonds will be made free and clear of, and without deduction or withholding for or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of the United Kingdom or any political subdivision or any authority thereof or therein having power to tax, unless deduction or withholding of such taxes, duties, assessments or governmental charges is required to be made by law.

In the event that any such withholding or deduction is required to be made, the Issuer will pay such additional amounts as will result in the receipt by the Bondholders of the amounts which would otherwise have been receivable by them had no such withholding or deduction been required, except that no such additional amount shall be payable in respect of any Bond to a holder (or to a third party on behalf of a holder) who is subject to such taxes, duties, assessments or governmental charges in respect of such Bond by reason of his having some connection with the United Kingdom, otherwise than merely by holding the Bond or by the receipt of amounts in respect of the Bond.

References in these Conditions to principal and/or interest and/or any other amounts payable in respect of the Bonds shall be deemed also to refer to any additional amounts which may be payable under this Condition or any undertaking or covenant given in addition thereto or in substitution therefor pursuant to the Trust Deed.

The provisions of this Condition 13 shall not apply in respect of any payments of interest which fall due after the relevant Tax Redemption Date specified in the Tax Redemption Notice in respect of any Bonds which are the subject of a Bondholder election pursuant to Condition 11(c).

Notwithstanding any other provision of these Conditions, in no event will the Issuer be required to pay any additional amounts in respect of the Bonds for, or on account of, any withholding or deduction required pursuant to FATCA (including pursuant to any agreement described in Section 1471(b) of the Code) or any law implementing an intergovernmental approach to FATCA.

Where a withholding or deduction for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature is imposed or levied by or on behalf of the United Kingdom or any political subdivision or any authority thereof or therein having power to tax, the exclusion in the second paragraph of this Condition 13 will only apply for so long as the Bonds are listed on a recognised stock exchange (within the meaning of Section 1005 of the Income Tax Act 2007) or admitted to trading on a MTF.

#### 14 Events of Default

If any of the following events (each an “**Event of Default**”) occurs and is continuing, then the Trustee at its discretion may and, if so requested in writing by holders of at least one quarter in principal amount of the outstanding Bonds and/or if so directed by an Extraordinary Resolution, shall (subject, in each case, to the Trustee having been secured and/or indemnified and/or pre-funded to its satisfaction) give written notice to the Issuer declaring the Bonds to be immediately due and payable, whereupon they shall become immediately due and payable at the Relevant Amount:

- (a) **Non-Payment/Failure to deliver Exchange Property:** the Issuer fails to pay when due the principal of or interest on any of the Bonds or any other sum due from it under the Bonds (including any Cash Alternative Amount) or to deliver Exchange Property as provided in these Conditions following any exercise of Exchange Rights and any such failure continues for a period of 14 London business days in the case of any payment of interest and for seven London business days in any other case; or
- (b) **Breach of Other Obligations:** the Issuer or any Chargor does not perform or comply with any one or more of its other obligations under the Bonds, the Trust Deed or the Security Agreements and, except where such default is, in the opinion of the Trustee, incapable of remedy (when no such notice as is hereinafter mentioned will be required), such default continues for a period of 30 calendar days (or such longer period as the Trustee may permit) after notice thereof shall have been given to the Issuer by the Trustee requiring the same to be remedied;
- (c) **Cross-Acceleration:** (i) any other present or future indebtedness for borrowed money of the Issuer or any Principal Subsidiary becomes due and payable prior to its stated maturity by reason of any event of default or the like (howsoever described); or (ii) any such indebtedness for borrowed money is not paid when due or, as the case may be, within any originally applicable grace period; or (iii) the Issuer or any Principal Subsidiary fails to pay when due any amount payable by it under any present or future guarantee for, or indemnity in respect of, any present or future indebtedness for borrowed money, provided that no such event shall constitute an Event of Default unless the relevant indebtedness for borrowed money or relevant guarantee of or indemnity in respect of indebtedness for borrowed money either alone or when aggregated with all other indebtedness for borrowed money or guarantees of or indemnities in respect of indebtedness for borrowed money (if any) in respect of which such events have occurred shall equal or exceed £20,000,000 or its equivalent in any other currency or currencies; or

- (d) **Enforcement Proceedings:** a distress, attachment, execution or other legal process is levied, enforced or sued out on or against all or substantially all of the property, assets or revenues of the Issuer or any Principal Subsidiary and is not discharged or stayed within 45 days; or
- (e) **Security Enforced:** any mortgage, charge, pledge, lien or other encumbrance, present or future, created or assumed by the Issuer or any Principal Subsidiary over all or substantially all of the property, assets or revenues of the Issuer or any Principal Subsidiary becomes enforceable and any step is taken to enforce it (including the taking of possession or the appointment of a receiver, administrative receiver, administrator manager or other similar person) and is not discharged or stayed within 45 days; or
- (f) **Insolvency:** the Issuer, any Chargor or any Principal Subsidiary is (or is, or could be, deemed by virtue of Section 123 of the Insolvency Act 1986 (other than Section 123(1)(a)) to be) insolvent or bankrupt or unable to pay its debts, stops, suspends or threatens to stop or suspend payment of all or substantially all of its debts, proposes or makes any agreement for the deferral, rescheduling or other readjustment of all of (or all of a particular type of) its debts (or of any part which it will or would be reasonably likely otherwise to be unable to pay when due), proposes or makes a general assignment or an arrangement or composition with or for the benefit of the relevant creditors in respect of all or substantially all of such debts or a moratorium is agreed or declared in respect of or affecting all or substantially all of (or of a particular type of) the debts of the Issuer, any Chargor or any Principal Subsidiary; or
- (g) **Winding-up:**
  - (i) an order is made or an effective resolution passed for the winding-up or dissolution or administration of the Issuer, any Chargor or any Principal Subsidiary; or
  - (ii) the Issuer and its Subsidiaries taken as a whole (the “**Group**”) cease or threaten to cease to carry on all or substantially all of the business or operations of the Group,

except in any such case (1) in connection with or for the purposes of a Permitted Cessation of Business; (2) in the case of a Principal Subsidiary, whereby the undertaking and assets of the relevant Principal Subsidiary are transferred to or otherwise vested in the Issuer or another of its Subsidiaries; or (3) a disposal on arms-length terms; or
- (h) **Analogous Events:** any event occurs which under the laws of any relevant jurisdiction has an analogous effect to any of the events referred to in any of the foregoing paragraphs,

provided that, in the case of any event as is specified in any of paragraphs (b), (d), (e), (f) (in relation to a Principal Subsidiary only) and (g) (in relation to a Principal Subsidiary only) and (h) (insofar as it relates to any of the events mentioned in relation to paragraphs (b), (d), (e), (f) (in relation to a Principal Subsidiary only) and (g) (in relation to a Principal Subsidiary only)), the Trustee shall have certified that in its opinion such event is materially prejudicial to the interests of the Bondholders (such certification with respect to an Event of Default is referred to herein as a “**Trustee Certification**”).

For the purposes of these Conditions, “**Principal Subsidiary**” means, at any time:

- (i) a Subsidiary of the Issuer whose gross assets (when consolidated with those gross assets of its Subsidiaries) exceed 10 per cent. of the aggregate gross assets of the Group at that time (the “**Principal Subsidiary Threshold**”), as (in the case of any relevant person other than the Group) derived from

financial information used for the preparation of the most recent audited consolidated accounts of the Group and (in the case of the Group) shown in the most recent audited annual consolidated accounts of the Group, provided that (x) in the case of a Subsidiary acquired or an entity which becomes a Subsidiary after the end of the financial period to which the then latest audited consolidated accounts of the Issuer relate, the reference to the then latest audited consolidated accounts of the Issuer for the purposes of the above calculation shall, until the consolidated audited accounts of the Issuer are published for the financial period in which the acquisition is made or, as the case may be, in which such entity becomes a Subsidiary, be deemed to be a reference to the then latest audited consolidated accounts of the Issuer adjusted in such manner as may be appropriate to consolidate the latest audited accounts (consolidated or, as the case may be, unconsolidated) of such Subsidiary in such accounts and (y) any Subsidiary which meets the Principal Subsidiary Threshold solely by virtue of being an intermediate holding company whose only assets (excluding intra-group loans) are holdings (whether directly or indirectly through other Subsidiaries) in Principal Subsidiaries shall be deemed not to be a Principal Subsidiary for the purposes of either this Condition 14 or Condition 3; or

- (ii) a Subsidiary to which is transferred all or substantially all of the business, assets and undertaking of a Subsidiary of the Issuer which immediately prior to such transfer is a Principal Subsidiary, whereupon the transferor Subsidiary of the Issuer shall immediately cease to be a Principal Subsidiary and the transferee Subsidiary shall immediately become a Principal Subsidiary (subject in each case to the provisions of paragraph (i) above); or
- (iii) a Subsidiary to which is transferred an undertaking or assets which, taken together with the undertaking or assets of the transferee Subsidiary, exceed the Principal Subsidiary Threshold, provided that the transferor Subsidiary (if a Principal Subsidiary) shall upon such transfer immediately cease to be a Principal Subsidiary unless immediately following such transfer its gross assets exceed the Principal Subsidiary Threshold, and the transferee Subsidiary shall cease to be a Principal Subsidiary pursuant to this sub-paragraph (iii) on the date on which the consolidated accounts of the Group for the financial period current at the date of such transfer have been prepared and audited, but so that such transferor Subsidiary or such transferee Subsidiary may be a Principal Subsidiary on or at any time after the date on which such consolidated accounts have been prepared and audited as aforesaid by virtue of the provisions of sub-paragraph (i) above or, prior to or after such date, by virtue of any other applicable provision of this definition.

A report by two directors of the Issuer that in their opinion a Subsidiary of the Issuer is or is not, or was or was not, at any particular time or throughout any specified period a Principal Subsidiary shall, in the absence of manifest error, be conclusive and binding on the Trustee and the Bondholders and the Trustee shall be entitled to rely on such report without liability to any person and without inquiry.

**“Relevant Amount”** means, in respect of each £100,000 principal amount of Bonds, an amount in cash equal to such principal amount, together with accrued interest thereon, save that if the relevant Event of Default occurs as a result of or in connection with a failure by the Issuer to comply with any of its obligations in relation to the exercise of Exchange Rights, it means an amount in cash equal to the higher of:

- (i) the Value of the Exchange Property per Bond and any other amounts which would have been payable and/or deliverable on exchange in respect of such Bond had the date of such declaration of the relevant Event of Default been the Exchange Date; and
- (ii) such principal amount, together with accrued but unpaid interest.



References in these Conditions and the Trust Deed to the principal amount of the Bonds shall, other than in Condition 5 and unless the context otherwise requires, include the Relevant Amount.

## **15 Prescription**

Claims in respect of the principal amount, interest and all other amounts payable in respect of the Bonds will become void unless made within 10 years (in the case of the principal amount) and five years (in the case of interest and any amounts other than principal) from the Relevant Date in respect thereof.

Claims in respect of any other obligation in respect of the Bonds, including delivery of Exchange Property, shall be prescribed and become void unless made within 10 years following the due date for performance of the relevant obligation.

## **16 Meetings of Bondholders, Modification and Waiver, Substitution and Entitlement of Trustee**

### ***(a) Meetings of Bondholders***

The Trust Deed contains provisions for convening meetings of Bondholders to consider matters affecting their interests, including the sanctioning by Extraordinary Resolution of a modification, abrogation, variation or compromise of any of these Conditions or any of the Transaction Documents. Such a meeting may be convened by the Issuer or the Trustee and shall be convened by the Trustee if requested in writing by Bondholders holding not less than 10 per cent. in principal amount of the Bonds for the time being outstanding (subject to the Trustee being indemnified and/or secured and/or prefunded to its satisfaction). The quorum for any meeting convened to consider an Extraordinary Resolution will be one or more persons holding or representing a clear majority in principal amount of the Bonds for the time being outstanding, or at any adjourned meeting one or more persons being or representing Bondholders whatever the principal amount of the Bonds so held or represented, unless the business of such meeting includes consideration of proposals, inter alia, (i) to change the Final Maturity Date or the First Call Date (other than deferring the First Call Date) or the dates on which interest is payable in respect of the Bonds, (ii) to modify the circumstances in which the Issuer or the Bondholders are entitled to redeem the Bonds pursuant to Condition 11(b), 11(c) or 11(d) (as the case may be), (iii) to reduce or cancel the principal amount of, or interest on, the Bonds or to reduce the amount payable on redemption of the Bonds, (iv) to modify the basis for calculating the interest payable in respect of the Bonds or the Cash Alternative Amount, (v) modifying Condition 2 (or the corresponding provisions of any Transaction Document described therein), or otherwise releasing any Security to the extent not expressly contemplated in the Conditions or the Transaction Documents, (vi) to modify or cancel the Exchange Rights (other than an increase in the Exchange Property deliverable on exercise of Exchange Rights), (vii) to change the currency of the denomination or any payment in respect of the Bonds, (viii) to change the governing law of the Bonds or the Transaction Documents (other than in the case of a substitution of the Issuer (or any previous substitute or substitutes) under Condition 10(g) or Condition 16(c)) or (ix) to modify this provision and the provisions concerning the quorum required at any meeting of Bondholders or the majority required to pass an Extraordinary Resolution, in which case the necessary quorum will be one or more persons holding or representing not less than two-thirds, or at any adjourned meeting not less than one-third, in principal amount of the Bonds for the time being outstanding. Any Extraordinary Resolution duly passed at any meeting of the Bondholders shall be binding on all of the Bondholders (whether or not they were present at the meeting at which such resolution was passed and whether or not they voted on such resolution).

The Trust Deed provides that a resolution in writing signed by or on behalf of the holders of not less than 75 per cent. of the aggregate principal amount of Bonds outstanding shall for all purposes be as valid and effective as an Extraordinary Resolution passed at a meeting of Bondholders duly convened and held. Such a resolution in writing may be contained in one document or several documents in the same form, each signed by or on behalf of one or more Bondholders. The Trust Deed also provides that consents given by way of electronic consents through the relevant clearing system(s) (in a form satisfactory to the Trustee) by or on behalf of the holder(s) of not less than 75 per cent. of the aggregate principal amount of the Bonds outstanding shall for all purposes be as valid and effective as an Extraordinary Resolution passed at a meeting of Bondholders duly convened and held.

**(b) *Modification and Waiver***

The Trustee may agree, without the consent of the Bondholders or any other Secured Party, to (i) any modification of any of the provisions of the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Bonds or these Conditions or any other Transaction Document which in the Trustee's opinion is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of law, and (ii) any other modification to the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Bonds or these Conditions or any other Transaction Document (except as mentioned in the Trust Deed), and any waiver or authorisation of any breach or proposed breach, of any of the provisions of the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Bonds or these Conditions or any other Transaction Document which is, in the opinion of the Trustee, not materially prejudicial to the interests of the Bondholders. The Trustee may, without the consent of the Bondholders or any other Secured Party, determine any Event of Default or a Potential Event of Default (as defined in the Trust Deed) should not be treated as such, provided that in the opinion of the Trustee, the interests of Bondholders will not be materially prejudiced thereby. Any such modification, authorisation, waiver or determination shall be binding on the Bondholders and, if the Trustee so requires, shall be notified to the Bondholders as soon as practicable in accordance with Condition 19.

**(c) *Substitution***

The Issuer may, at its option, without the consent of Bondholders or any other Secured Party, procure the substitution in place of the Issuer (or any previous substitute or substitutes under this Condition) as the principal debtor under the Bonds and the Trust Deed of any Relevant Person (as defined below) subject to (a) the obligations of the Relevant Person (as the substitute issuer) under the Trust Deed and the Bonds being unconditionally and irrevocably guaranteed by the Issuer, (b) the Bonds remaining secured in the manner set out in these Conditions and the Transaction Documents or failing which, such other security being put in place as is acceptable to the Trustee, (c) the Bonds continuing to be exchangeable *mutatis mutandis* as provided in these Conditions into the Exchange Property per Bond or a Cash Alternative Amount, with such amendments as the Trustee may approve, (d) delivery to the Trustee of certificates from an authorised signatory of the Issuer and an authorised signatory of the Relevant Person certifying that the substitution is in the opinion of the Issuer or the Relevant Person, as the case may be, not materially prejudicial to the interests of the Bondholders and the other Secured Parties and certifying as to the solvency of the Issuer and the Relevant Person, respectively and (e) delivery to the Trustee of such legal opinions and other certificates as it may reasonably require.

At the request of the Issuer, but subject to the Issuer's compliance with the provisions of this Condition 16(c), the Trustee shall (at the expense of the Issuer), without the requirement for any consent or approval of the Bondholders or any other Secured Party, use its reasonable endeavours to co-operate with the Issuer in effecting any substitution as referred to above (including, *inter alia*, the execution of a deed supplemental to or amending the Trust Deed and any other Transaction Document), provided that the Trustee shall not be obliged to do so if in the opinion of the Trustee doing so would be contrary to any law or regulation in any jurisdiction or would impose more onerous obligations upon it or expose it to any additional duties, responsibilities or liabilities or reduce or amend the protective provisions afforded to the Trustee in these Conditions, the Trust Deed, the Agency Agreement or any other Transaction Document (including, for the avoidance of doubt, any document supplemental thereto).

In the case of such a substitution the Trustee may agree, without the consent of the Bondholders or any other Secured Party, to a change of the law governing the Bonds and/or the Trust Deed provided that such change would not in the opinion of the Trustee be materially prejudicial to the interests of the Bondholders.

Any such substitution and/or giving of a guarantee shall be binding on the Bondholders and shall be notified to the Bondholders promptly in accordance with Condition 19.

For the purposes of this Condition 16(c), "**Relevant Person**" means (i) any Subsidiary of the Issuer, (ii) any entity of which the Issuer is a direct or indirect Subsidiary or (iii) any Exempt Change of Control Acquiror.

In concurring with the Issuer in effecting any substitution as referred to above, the Trustee shall be entitled to rely on the opinions and certificates delivered to it in accordance with this Condition 16(c) as sufficient evidence of satisfaction of the conditions referred to above without being under any obligation to verify or investigate the same and without being liable to any person for any loss suffered or incurred as a result and without being required to have regard to the financial condition or prospects of the proposed substitute and without being required to have regard to the risk of any subsequent challenge to the substitution as a result of any insolvency of the Issuer or substitute or on any other grounds whatsoever.

**(d) Entitlement of the Trustee**

In connection with the exercise of its functions (including but not limited to those referred to in this Condition) the Trustee shall have regard to the interests of the Bondholders as a class and, in particular but without limitation, shall not have regard to the consequences of the exercise of its trusts, powers or discretions for individual Bondholders resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory, and the Trustee shall not be entitled to require, nor shall any Bondholder be entitled to claim, from the Issuer or any other person any indemnification or payment in respect of any tax consequence of any such exercise upon individual Bondholders.

## **17 Enforcement**

The Trustee may at any time, at its discretion and without notice, take such actions, steps or proceedings or other action against the Issuer as it may think fit to enforce the provisions of the Trust Deed and the Bonds, but it shall not be bound to take any such actions, steps or proceedings or any other action in relation to the Trust Deed or the Bonds unless (i) it shall have been so directed by an Extraordinary Resolution of the

Bondholders or so requested in writing by the holders of at least one-quarter in principal amount of the Bonds then outstanding, and (ii) it shall have been indemnified and/or secured and/or prefunded to its satisfaction.

Notwithstanding the above:

- (i) the Trustee may refrain from taking any proceedings, actions or steps in any jurisdiction if the taking of such action in that jurisdiction would, in its opinion based upon legal advice in the relevant jurisdiction, be contrary to any law of that jurisdiction; and
- (ii) the Trustee may refrain from taking any proceedings, actions or steps in any jurisdiction if in its opinion, based upon legal advice in the relevant jurisdiction, such proceedings, actions or steps would or may render it liable to any person in that jurisdiction or, the Trustee would or may not have the power to do the relevant thing in that jurisdiction by virtue of any applicable law in that jurisdiction or if it is determined by any court or other competent authority in that jurisdiction that the Trustee does not have such power.

No Bondholder shall be entitled to proceed directly against the Issuer unless the Trustee, having become bound so to proceed, fails so to do within a reasonable period and the failure shall be continuing.

The Trustee has no responsibility for delivery of Exchange Property to Bondholders nor for the validity or value of the Security, the Exchange Property or the Secured Property nor for any insufficiency of the Exchange Property resulting from the Trustee or the Issuer being liable for tax in respect of the Exchange Property.

The Trustee shall not be responsible for loss, diminution in value or theft of all or part of the Exchange Property or the Secured Property.

The Trustee shall not be responsible for monitoring or supervising the performance by the Custodian or any agent of the Issuer of their respective functions, duties and obligations under the Transaction Documents or otherwise. The Trustee shall not be liable to any person for any loss occasioned by any act or omission of the Custodian or any agent of the Issuer.

The Trustee is entitled to accept without investigation, requisition or objection such right and title as the Chargors have to the Secured Property without being bound or concerned to examine or enquire into, or be liable or responsible for, any defect or failure in the right or title of any such Chargor to the Secured Property whether or not such defect or failure was known to the Trustee or might have been discovered upon examination or enquiry and whether capable of remedy or not.

## **18 The Trustee**

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility, including relieving it from taking any proceedings, actions and/or steps unless indemnified and/or secured and/or prefunded to its satisfaction. The Trustee is entitled to enter into business transactions with the Issuer and any entity related to the Issuer without accounting for any profit.

The Trustee may act and rely without liability to Bondholders or other Secured Parties and without further investigation on a report, confirmation, certificate, opinion or any advice of any accountants, lawyers, financial advisers, financial institution or other expert, whether or not addressed to it and whether their liability in relation thereto is limited (by its terms or by any engagement letter relating thereto entered into by the Trustee or in any other manner) by reference to a monetary cap, methodology or otherwise. The Trustee may accept and shall be entitled to act and rely without liability to any person on any such report,

confirmation, certificate, opinion or advice and such report, confirmation, certificate, opinion or advice shall be binding on the Issuer, the Trustee and the Secured Parties.

## 19 Notices

All notices required to be given to Bondholders pursuant to the Conditions will (unless otherwise provided in these Conditions) be given by publication through the electronic communication system of Bloomberg. The Issuer shall also ensure that all notices are duly published (if such publication is required) in a manner which complies with the rules and regulations of any stock exchange or other relevant authority on which the Bonds are for the time being listed and/or admitted to trading. Any such notice shall be deemed to have been given on the date of such publication or if required to be published in more than one manner or at different times, then such notice shall be deemed to have been given on the date of the publication in each required manner and time. If publication as provided above is not practicable, notice will be given in such other manner, and shall be deemed to be given on such date, as the Trustee may approve.

The Issuer shall send a copy of all notices given by it to Bondholders (or a Bondholder) or the Trustee pursuant to these Conditions simultaneously to the Calculation Agent.

*For so long as the Bonds are represented by a Global Bond registered in the name of, and held by a nominee on behalf of, a common depositary for Euroclear or Clearstream, Luxembourg notices to Bondholders shall in addition be given by the delivery of the relevant notice to Euroclear and/or Clearstream, Luxembourg as the case may be, and such notices shall be deemed to have been given to Bondholders on the day of delivery to Euroclear and/or Clearstream, Luxembourg.*

All Parity Notification Event Notices to be given to the Issuer shall be delivered to the Issuer by electronic mail only to [Graham.keer@capitalandcounties.com](mailto:Graham.keer@capitalandcounties.com) and [treasury@capitalandcounties.com](mailto:treasury@capitalandcounties.com), and shall simultaneously be copied to the Calculation Agent by electronic mail only to [calculation.agent@conv-ex.com](mailto:calculation.agent@conv-ex.com), or in each case to such other electronic mail address as may be notified to Bondholders in accordance with this Condition 19.

## 20 Replacement of Certificates

If any Certificate is mutilated, defaced, destroyed, stolen or lost, it may be replaced at the specified office of the Paying, Transfer and Exchange Agent upon payment by the claimant of such costs as may be incurred in connection therewith and on such terms as to evidence and indemnity as the Issuer may reasonably require. Mutilated or defaced Certificates must be surrendered before replacements will be issued.

## 21 Further Issues

The Issuer may from time to time, without the consent of the Bondholders or any other Secured Party, create and issue further securities having the same terms and conditions in all respects (or in all respects except for the first payment of interest on them and the first date on which exchange rights may be exercised) as the Bonds and so that such further issue shall be consolidated and form a single series with the outstanding Bonds (the “**Further Bonds**”); provided that, in the case of an issue of Further Bonds, the Exchange Property and Secured Property must be increased commensurately to the principal amount of Further Bonds issued such that the composition and amount of Exchange Property and Secured Property per Bond immediately upon issue of the Further Bonds is the same in all material respects. References in these Conditions to the Bonds include (unless the context requires otherwise or unless otherwise specified herein) any Further Bonds. Any Further Bonds shall be constituted by the Trust Deed or a deed supplemental to it.

Further to the creation and issue of Further Bonds pursuant to this Condition 21, the Issuer may (i) procure that all or part of the Secured Property in respect of the Bonds (including the Further Bonds) is credited to and/or transferred to one or more existing and/or additional Chargors in accordance with Condition 2(g) and (ii) appoint and/or remove any Custodian in accordance with Condition 12(d).

## **22 Contracts (Rights of Third Parties) Act 1999**

No person shall have any right to enforce any term or condition of the Bonds under the Contracts (Rights of Third Parties) Act 1999.

## **23 Governing Law**

The Trust Deed, the Agency Agreement, the Security Agreements, the Custody Agreements and the Bonds and any non-contractual obligations arising out of or in connection with them are governed by, and shall be construed in accordance with, English law.