

**THIS CIRCULAR IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION**

**The definitions commencing on page 5 of this Circular apply, mutatis mutandis, to this cover page.**

**Action required:**

This circular is important and should be read with particular attention to page 2 entitled "Action required by Tradehold Shareholders".

If you are in any doubt as to the action you should take, please consult your broker, Participant, banker, accountant, attorney or other professional advisor immediately.

If you have disposed of all your Tradehold shares, please forward this circular to the purchaser of such shares or to the broker, Participant, banker or other agent through whom you disposed of such.

This circular incorporates revised listing particulars and is issued in compliance with the Listings Requirements for the purpose of providing information to the public with regard to the Company.



**TRADEHOLD LIMITED**

(Incorporated in the Republic of South Africa)  
Registration number 1970/009054/06  
JSE share code: TDH ISIN: ZAE000152658  
("Tradehold" or "the Company")

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**CIRCULAR TO TRADEHOLD SHAREHOLDERS**

**relating to:**

- an increase in the authorised share capital of the Company through the creation of 65,000,000 redeemable preference shares of no par value, having the rights, privileges, restrictions and conditions set out in Annexure A of this Circular ("A Preference Shares"), which preference shares rank in priority to the non-convertible, non-participating non-transferable, redeemable preference shares ("N Preference Shares") and Ordinary Shares in respect of dividends and on a winding up;
- an increase in the authorised share capital of the capital of the Company through the creation of total 40,000,000 redeemable preference shares of no par value, having the rights, privileges, restrictions and conditions as determined by the Directors upon issue thereof ("Unspecified Preference Shares"), but which are intended to rank in priority to the N Preference Shares and Ordinary Shares in respect of dividends and on a winding up;
- the authority for the issue of up to 65,000,000 of the authorised but unissued A Preference Shares, subject to certain limitations;
- the authority for the issue of up to 40,000,000 of the authorised but unissued Unspecified Preference Shares, subject to certain limitations;
- the amendment of the Memorandum of Incorporation to enable the proposals contained in this Circular to be implemented;
- directors' authority to issue Ordinary Shares in terms of section 41(1) of the Companies Act;

**and including:**

- a notice of a combined general meeting of the Shareholders at the Company's Registered Office on 22 December 2014 ("Combined General Meeting") in order to consider and if deemed fit, approve, the resolutions in respect of the matters above as required in terms of the MOI, further details of which are set out in the "Actions Required by Ordinary and Preference Shareholders" section of this Circular;
  - a notice of a special general meeting of the holders of N Preference Shares ("N Preference Shareholders") at the Company's Registered Office on 22 December 2014 ("Special General Meeting") in order to consider and if deemed fit, approve, the resolutions in respect of the matters above as required in terms of the MOI, further details of which are set out in the "Actions Required by Preference Shareholders" section of this Circular;
  - the proposed amendments to the Memorandum of Incorporation;
  - a form of proxy (*green*) (for use by certificated and "own name" dematerialised Tradehold Shareholders only) for purposes of the Combined General Meeting; and
  - a form of proxy (*blue*) (for use by N Preference Shareholders only) for purposes of the Special General Meeting.
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**Corporate Advisors**



**Sponsor to Tradehold**



**Legal Advisors**



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## CORPORATE INFORMATION AND ADVISORS

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### Directors of Tradehold

CH Wiese *Non-executive Chairman*  
FH Esterhuysen *Joint Chief Executive*  
DA Harrop *Executive Director*  
KL Nordier *Financial Director*  
MJ Roberts *Independent non-executive*  
HRW Troskie *Lead independent director*  
JD Wiese, *Alternate to CH Wiese*  
JM Wragge *Independent non-executive director*  
TA Vaughan *Joint Chief Executive*

### Secretary and registered office

FM ver Loren van Themaat  
BComm, LLB  
3rd Floor, Pepkor Building  
36 Stellenberg Road  
Parow Industria, 7493  
(PO Box 6100, Parow East, 7501)

### Sponsor

Bravura Capital Proprietary Limited  
(Registration number 1998/017454/07)  
23 Fricker Road  
Ground Floor, Office Suite 2  
Illovo Boulevard, 2196  
(PO Box 2070, Parklands, 2121)

### Date and place of incorporation

10 July 1970  
Republic of South Africa

### Corporate Advisors

Mettle Specialised Finance Proprietary Limited  
(Registration number 2008/027610/07)  
Mettle Building, Willie van Schoor Avenue  
Bellville, 7530  
(PO Box 3991, Tygervalley, 7536)

### Transfer Secretaries

Computershare Investor Services Proprietary Limited  
(Registration number 2004/003647/07)  
Ground Floor  
70 Marshall Street  
Johannesburg, 2001  
(PO Box 61051, Marshalltown, 2107)

### Attorneys

Cliffe Dekker Hofmeyr Incorporated  
(Registration number 2008/018923/21)  
11 Buitengracht Street  
Cape Town, 8001  
(PO Box 695, Cape Town, 8000)

*This circular is available in English only and copies thereof may be obtained from Tradehold's registered office, Bravura Capital Proprietary Limited and the Transfer Secretaries at the addresses reflected in the "Corporate Information and Advisors" section of this Circular.*

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## **ACTION REQUIRED BY TRADEHOLD SHAREHOLDERS**

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The definitions set out on pages 5 to 7 of this Circular apply to this section on action required by Tradehold Shareholders.

Please take careful note of the following provisions regarding the action required by Tradehold Shareholders:

If you are in any doubt as to what action to take, please consult your Participant, broker, attorney, banker or other professional advisor immediately.

The Combined General Meeting of Tradehold Shareholders will be held at 10:00 on 22 December 2014 at the Company's Registered Office.

The Special General Meeting which follows the Combined General Meeting is for the N Preference Shareholders to approve certain proposals which will be tabled at the Special General Meeting. It should be noted that the Company's MOI requires approval by the N Preference Shareholders at the Special General Meeting, in addition to their votes at the Combined General Meeting (refer to the Notice of Special General Meeting for further details). This is due to the fact that the creation of the A Preference Shares and the Unspecified Preference Shares requires the specific approval of the N Preference Shareholders in terms of clause 10.5 of the Company's MOI.

The Special General Meeting of N Preference Shareholders will be held at 10:30 on 22 December 2014 at the Company's Registered Office.

### **ACTION REQUIRED**

#### **1. IF YOU HAVE DEMATERIALIZED YOUR TRADEHOLD SHARES OTHER THAN WITH "OWN-NAME" REGISTRATION**

##### **1.1 Voting at the Combined General Meeting**

- Your Participant or broker should contact you to ascertain how you wish to cast your vote at the Combined General Meeting and thereafter to cast your vote in accordance with your instructions.
- If you have not been contacted by your Participant or broker, it is advisable for you to contact your Participant or broker and furnish such with your voting instructions.
- If your Participant or broker does not obtain voting instructions from you, it will be obliged to vote in accordance with the instructions contained in the custody agreement concluded between you and your Participant or broker.
- You must **not** complete the attached forms of proxy.

##### **1.2 Attendance and representation at the Combined General Meeting**

In accordance with the mandate between you and your Participant or broker, you must advise your Participant or broker if you wish to attend the Combined General Meeting. Your Participant or broker will then issue the necessary letter of representation to you to attend the Combined General Meeting.

#### **2. IF YOU HAVE NOT DEMATERIALIZED YOUR TRADEHOLD SHARES OR HAVE DEMATERIALIZED YOUR TRADEHOLD SHARES WITH "OWN-NAME" REGISTRATION**

##### **2.1 Voting and attendance at the Combined General Meeting**

Tradehold Shareholders may attend the Combined General Meeting in person and may vote at the Combined General Meeting.

Alternatively:

- Tradehold Ordinary Shareholders and Tradehold Preference Shareholders may appoint a proxy to represent them at the Combined General Meeting by completing the attached form of proxy (*green*) in accordance with the instructions it contains and returning it to the Transfer Secretaries to be received by no later than the time for holding of the Combined General Meeting, but preferably not later than 5 (five) business days before the time for holding of the meeting in order that the Transfer Secretaries may be able to timeously send the proxy form on your behalf to the Registered Office; and
- Tradehold N Preference Shareholders may appoint a proxy to represent them at the Special General Meeting by completing the attached form of proxy (*blue*) in accordance with the instructions it contains and returning it to the Transfer Secretaries to be received by no later than the time for holding of the Special General Meeting, but preferably not later than 5 (five) business days before the time for holding of the meeting in order that the Transfer Secretaries may be able to timeously send the proxy form on your behalf to the Registered Office.

If you wish to dematerialise your Tradehold Shares, please contact your Participant or broker.

If you have disposed of all of your Tradehold Shares, this Circular should be handed to the purchaser of such Tradehold Shares or the Participant, broker, banker or other agent who disposed of your Tradehold Shares for you.

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## IMPORTANT DATES AND TIMES

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The definitions set out on pages 5 to 7 of this Circular apply to this section on important dates and times.

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**2014**

Record date to determine which shareholders are entitled to receive the Circular	Friday, 14 November
Distribution of Circular	Monday, 24 November
Last day to trade to vote at the Combined General Meeting and the Special General Meeting	Friday, 5 December
Record date to vote at the Combined General Meeting and the Special General Meeting	Friday, 12 December
Last day for receipt of forms of proxy for the Combined General Meeting by the Transfer Secretaries before 10:00 on	Thursday, 18 December
Last day for receipt of forms of proxy for the Special General Meeting by the Transfer Secretaries before 10:30 on	Thursday, 18 December
Combined General Meeting to be held at the Registered Office at 10:00 on	Monday, 22 December
Special General Meeting to be held at the Registered Office at 10:30 on	
Results of the Combined General Meeting and the Special General Meeting released on SENS on	Monday, 22 December

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### Notes:

1. The above dates and times are subject to change. Any material changes will be released on SENS.
2. Any reference to time is a reference to South African time.
3. Forms of proxy for the Combined General Meeting and/or the Special General Meeting must be received by no later than the time for holding the relevant meeting, but preferably 5 (five) business day prior to the time of the Combined General Meeting and/or the Special General Meeting (excluding Saturdays, Sundays and official public holidays in South Africa) by the Transfer Secretaries, in order that the Transfer Secretaries may be able to timeously send the forms of proxy on your behalf to the Registered Office.
4. If the Combined General Meeting and/or the Special General Meeting is adjourned or postponed, forms of proxy must be received by no later than the time for holding the adjourned or postponed meeting, but preferably 5 (five) business days prior to the time of the adjournment or postponed Combined General Meeting and/or the Special General Meeting (excluding Saturdays, Sundays and official public holidays in South Africa) by the Transfer Secretaries, in order that the Transfer Secretaries may be able to timeously send the proxy form on your behalf to the Registered Office.

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## DEFINITIONS

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In this Circular, unless otherwise stated or the context otherwise indicates, the words and expressions in the first column shall have the meaning stated opposite them in the second column and words and expressions in the singular shall include the plural and *vice versa*, words importing natural persons shall include corporations and associations of persons and *vice versa* and any reference to one gender shall include the other gender:

<b>"A Preference Shares"</b> or <b>"Tradehold A Preference Shares"</b>	means A redeemable preference shares of no par value to be created in the share capital of Tradehold, having the preferences, rights, limitations and other terms set out in the A Preference Share Terms;
<b>"A Preference Share Terms"</b>	means the rights, privileges, restrictions and conditions of the A Preference Shares contained in Annexure A hereto;
<b>"Board"</b>	means the board of Directors of the Company;
<b>"Business Day"</b>	means any day other than a Saturday, Sunday or statutory public holiday in South Africa;
<b>"Certificated Shareholder"</b>	means a Tradehold Shareholder holding Certificated Shares;
<b>"Certificated Shares"</b>	means Tradehold Shares represented by a paper share certificate or other physical document(s) of title, which shares have not been surrendered for Dematerialisation;
<b>"Circular"</b>	means this circular to Tradehold Shareholders dated 24 November 2014 incorporating a Notice of Combined General Meeting, a Notice of Special General Meeting and forms of proxy;
<b>"Combined General Meeting"</b>	means the combined meeting of Tradehold Ordinary Shareholders and Tradehold N Preference Shareholders to take place at the Company's Registered Office at 10:00 on 22 December 2014. The meeting has been convened in terms of the Notice of Combined General Meeting attached to this Circular;
<b>"Companies Act"</b>	means the South African Companies Act, 2008;
<b>"Companies Regulations"</b>	means the Companies Regulations, 2011, promulgated in terms of the Companies Act;
<b>"Dematerialise"</b> or <b>"Dematerialised"</b>	means the process by which Certificated Shares are converted to or held in an electronic form as uncertificated shares and recorded in the sub-register of shareholders maintained by a Participant;
<b>"Dematerialised Shareholder"</b>	means a Tradehold Shareholder holding Dematerialised Shares;
<b>"Dematerialised Shares"</b>	means Tradehold Shares which have been Dematerialised;
<b>"Directors"</b>	mean the directors of Tradehold as listed on page 8 of this Circular;
<b>"Dispose"</b> or <b>"Disposal"</b>	means gifting, mortgaging, pledging, charging, lending, assigning, creating any security interest over, selling or transferring (or publicly announcing an intention to do any of the same) or otherwise disposing of any Interest in the relevant securities (whether conditionally or unconditionally);
<b>"Financial Markets Act"</b>	means the Financial Markets Act, 2012;

<b>“Good Leaver”</b>	means, in relation to Vaughan, if the termination of his employment with Tradehold or any of its subsidiaries occurs in any of the following circumstances: <ul style="list-style-type: none"> <li>• retirement on or after contractual retirement date or otherwise in accordance with his employment contract (and any policy on retirement adopted by Tradehold, if any);</li> <li>• retirement on the grounds of ill health or permanent disability;</li> <li>• retirement with the prior consent in writing of Tradehold;</li> <li>• dismissal from employment which does not involve gross negligence or gross misconduct on the part of Vaughan; or</li> <li>• death;</li> </ul>
<b>“JSE”</b>	means the stock exchange known as the JSE Limited (which has been licensed as an exchange under the Financial Markets Act);
<b>“MOI”</b>	means the Memorandum of Incorporation of the Company;
<b>“MHLS”</b>	means Moorgarth Holdings (Luxembourg) S.à r.l., registration number B 156.358, a limited liability company ( <i>société à responsabilité limitée</i> ), incorporated in accordance with the laws of Luxembourg;
<b>“MHLS Shares”</b>	means 50 ordinary shares in the share capital of MHLS;
<b>“N Preference Shares”</b>	means non-participating, non-convertible preference shares with a par value R0.01 (one cent) each in the share capital of Tradehold, having the rights, privileges and conditions contained in clause 9 of the MOI;
<b>“N Preference Shareholders”</b> or <b>“Tradehold N Preference Shareholders”</b>	means the holders of N Preference Shares;
<b>“Ordinary Shareholders”</b> or <b>“Tradehold Ordinary Shareholders”</b>	means the holders of Tradehold Ordinary Shares;
<b>“Ordinary Shares”</b> or <b>“Tradehold Ordinary Shares”</b>	means unlisted ordinary shares with a par value of 1 cent each in the share capital of Tradehold;
<b>“Participant”</b>	means a participant, as defined in section 1 of the Financial Markets Act;
<b>“Registered Office”</b> or <b>“Company’s Registered Office”</b>	means the registered office of Tradehold, being 36 Stellenberg Road, Parow Industria, 7493;
<b>“Restricted Period”</b>	means the period commencing on the date of issue of the Vaughan Shares and terminating on the date falling three years thereafter;
<b>“Reward”</b>	means Reward Investments Limited, registration number 07385919, a limited liability company incorporated in accordance with the laws of England and Wales;
<b>“Reward Shares”</b>	means 10 class C ordinary shares in the share capital of Reward;
<b>“Restricted Vaughan Shares”</b>	means 452,587 of the Vaughan Shares;
<b>“RMB”</b>	Rand Merchant Bank, a division of FirstRand Bank Limited, registration number 1929/001225/06, a company incorporated in accordance with the laws of South Africa;
<b>“SENS”</b>	means the “Stock Exchange News Service” of the JSE;
<b>“Shareholders”</b> or <b>“Tradehold Shareholders”</b>	means, collectively, the holders of Tradehold Shares;
<b>“Shares”</b> or <b>“Tradehold Shares”</b>	means, collectively, Tradehold Ordinary Shares and Tradehold N Preference Shares;



<b>“South Africa”</b>	means the Republic of South Africa;
<b>“Special General Meeting”</b>	means the meeting of Tradehold N Preference Shares expected to take place at the Company’s Registered Office at 10:30 on 22 December 2014. The meeting has been convened in terms of the Notice of Special General Meeting attached to this Circular;
<b>“Tradegro”</b>	means Tradegro S.à r.l., registration number B 149.807, a limited liability company ( <i>société à responsabilité limitée</i> ), incorporated in accordance with the laws of Luxembourg;
<b>“Tradegro Shares”</b>	means 398,481 ordinary shares in the share capital of Tradegro;
<b>“Tradegro Holdings”</b>	means Tradegro Holdings Proprietary Limited, registration number 1921/006793/07, a company incorporated in accordance with the laws of South Africa;
<b>“Tradegro Holdings Shares”</b>	means 148 ordinary shares of R2.00 each in the share capital of Tradegro Holdings;
<b>“Tradehold” or “the Company”</b>	means Tradehold Limited, registration number 1970/009054/06, a company incorporated in accordance with the laws of South Africa;
<b>“Transfer Secretaries”</b>	means Computershare Investor Services Proprietary Limited, registration number 2004/003647/07, a company incorporated in South Africa;
<b>“Unspecified Preference Shares”</b>	means redeemable preference shares of no par value, having the preferences, rights, limitations and other terms determined by the Board upon the issue thereof, in terms of and as contemplated in section 36(1)(d) of the Companies Act;
<b>“Vaughan”</b>	means Timothy Andrew Vaughan;
<b>“Vaughan Agreement”</b>	means the written share exchange, lock-up and option agreement entered into between the Company, Tradegro Holdings, Tradegro and Vaughan;
<b>“Vaughan Issue”</b>	means the acquisition issue of the Vaughan Shares to Vaughan pursuant to the Vaughan Transaction;
<b>“Vaughan Shares”</b>	means 532,456 Ordinary Shares to be issued to Vaughan pursuant to Vaughan Transaction;
<b>“Vaughan Transaction”</b>	means the transaction with Vaughan described in paragraph 6 of this Circular; and
<b>“ZAR” or “R” or “Rand”</b>	means South African Rand, the lawful currency of South Africa.



## **TRADEHOLD LIMITED**

(Incorporated in the Republic of South Africa)  
Registration number 1970/009054/06  
JSE share code: TDH ISIN: ZAE000152658  
("Tradehold" or "the Company")

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### **Directors of Tradehold**

CH Wiese  
FH Esterhuysen  
DA Harrop  
KL Nordier  
MJ Roberts  
HRW Troskie  
JD Wiese (alternate to CH Wiese)  
JM Wragge  
TA Vaughan

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## **CIRCULAR TO TRADEHOLD ORDINARY AND N PREFERENCE SHAREHOLDERS**

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### **1. INTRODUCTION AND PURPOSE OF THIS CIRCULAR**

The Directors are proposing that:

- the Company creates 65,000,000 A Preference Shares;
- the Company creates a total of 40,000,000 Unspecified Preference Shares of various classes;
- the Company amends its MOI as to enable the proposals contained in this Circular to be implemented;
- in terms of the MOI, the Shareholders provide the requisite authority to the Board to issue A Preference Shares, subject to the restrictions referred to in this Circular;
- in terms of the MOI, the Shareholders provide the requisite authority to the Board to issue Unspecified Preference Shares, and to determine the terms, preferences, rights, limitations and other terms associated with such shares upon their issue, subject to the restrictions referred to in this Circular; and
- the Vaughan Shares be issued and allotted to Vaughan.

The Vaughan Issue constitutes an acquisition issue in terms of the Listings Requirements and is required to be implemented in terms of certain provisions of the Companies Act.

The purpose of this Circular is to furnish Shareholders with information relating to the proposed resolutions, in accordance with the MOI, and to convene:

- the Combined General Meeting at which the Tradehold Shareholders will be requested to approve the proposed resolutions contained in the Notice of Combined General Meeting attached to and forming part of this Circular; and
- the Special General Meeting at which the N Preference Shareholders will be requested to approve the proposed resolutions contained in the Notice of Special General Meeting attached to and forming part of this Circular.

### **2. RATIONALE FOR THE CREATION AND ISSUE OF THE A PREFERENCE SHARES AND THE UNSPECIFIED PREFERENCE SHARES**

Tradehold is an investment holding company predominantly focused on investing capital in property as well as developing and expanding its existing property portfolio, which is primarily based in the United Kingdom.

The Board has identified property investments in the United Kingdom and Africa, and is seeking to raise term capital through the issue of A Preference Shares into the South African market.

Tradehold's status in the South African financial markets allows the Company to capitalise on the positive market sentiment and appetite in South Africa and to raise funding at very attractive funding rates relative to the offshore market. The raising of funding through the issue of A Preference Shares is non-dilutive for ordinary shareholders.

The funding would facilitate the improvement of the quality and growth of Tradehold's United Kingdom property portfolio in line with the Board's strategy to grow the net asset value of the group. A portion of the capital to be raised will be utilised for investment into commercial retail property in sub-Saharan Africa. Over time this growth in underlying assets should lead to an increase in the net asset value of Tradehold.

Aligned to Tradehold's growth strategy, the proposed capital raising thus provides the following benefits:

- access to term capital at attractive funding rates and terms;
- further strengthens the Company's existing capital base;
- effectively lowers the Company's cost of capital;
- potential to diversify Tradehold's funder base; and
- no dilution to ordinary shareholders.

It is proposed that an initial capital raising will be implemented through the issuance of the A Preference Shares, to be issued over a maximum period of six months, in terms of which up to a limited number of 65,000,000 (sixty five million) A Preference Shares will be issued. The issuance is expected to raise approximately R650,000,000 (six hundred and fifty million Rand). Tradehold has received conditional commitments from RMB to underwrite any offer for A Preference Shares.

In addition, it is contemplated that Tradehold may from time to time in the future wish to tap the preference share capital market by issuing further classes of redeemable preference shares. For this purpose the Company is creating various classes of Unspecified Preference Shares, and the Board is seeking an authority to issue such Unspecified Preference Shares, and to determine their preferences, rights, limitations and other terms upon the issue of such preference shares, within certain parameters approved by Shareholders.

### 3. THE A PREFERENCE SHARES

The A Preference Shares are cumulative, redeemable non-convertible preference shares with no nominal or par value. The full terms of the A Preference Shares are set out in the Annexure A which forms part of this Circular. Capitalised words used in this summary shall, unless the context indicates otherwise, have the meaning ascribed thereto in Annexure A.

The Board proposes that shareholders pass a separate special resolution in terms whereof the authority of the Board to issue A Preference Shares is (until such time as such authority is amended or revoked in general meeting) made subject to the following limitations:

- the authority will be valid from the date of the Special General Meeting until the Company's next annual general meeting; and
- the maximum amount to be raised by the issue of A Preference Shares is R650,000,000,
- there being no further limitations on the Board's authority to issue A Preference Shares (including on the price at which the A Preference Shares may be issued).

*The summary set out herein is not conclusive or exhaustive, and potential investors should refer to Annexure A for full particulars of the terms and conditions of the A Preference Shares. In this summary, capitalised terms have the meanings given thereto in Annexure A. In the case of any divergences between this summary and the full terms as contained in the aforementioned Annexure A, the latter shall prevail.*

### 3.1 Entitlements to dividends

Dividends are payable quarterly on each Dividend Payment Date.

For each Dividend Period, each A Preference Share shall be entitled to a Scheduled A Dividend in an amount equal to the amount calculated on a Dividend Payment Date in accordance with the following formula:

$$a = (b + c) \times d \times e$$

in which formula:

- a* represents the amount for that Dividend Payment Date;
- b* represents the Subscription Price less any Capital Distribution in respect of that A Preference Share;
- c* represents the Accumulated A Dividends in respect of that A Preference Share at 17:00, Johannesburg time, on the Business Day immediately preceding the applicable Dividend Payment Date;
- d* represents if a Trigger Event (i) has not occurred, the Dividend Rate divided by 365 (three hundred and sixty five), or (ii) has occurred, the Default Dividend Rate divided by 365 (three hundred and sixty five); and
- e* represents the number of days during the applicable Dividend Period.

If JIBAR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by 11:00 on the Quotation Date, JIBAR shall be determined on the basis of the quotations of the remaining Reference Banks.

If certain market disruption events occur which, in relation to all Beneficiaries or a specific Beneficiary, makes it impossible to determine JIBAR, or JIBAR does not reflect the costs of funding in relation to a Beneficiary, JIBAR (in respect of all the Holders) shall be determined by the Preference Share Agent in accordance with clause 6 of the A Preference Share Terms.

If the Company voluntarily redeems the A Preference Shares other than out of the Internally Generated Cash Flows of the Group, or from the proceeds of any Refinancing, the Holders shall be entitled to receive and be paid the Refinance A Preference Dividend. No Refinance A Preference Dividend shall be payable if the A Preference Shares are voluntarily redeemed as a result of the occurrence of an Adjustment Event and the further circumstances described in paragraph 3.3.

### 3.2 Ordinary Share Distributions

The Company shall not be permitted to pay any Distributions in respect of its Ordinary Shares if the dividends in respect of the A Preference Shares have not been paid in full or if the Financial Covenants have not been complied with.

### 3.3 Adjustment Events

Tax Adjustment Event: The Company shall pay, in respect of the Outstanding A Preference Shares, an Additional A Dividend in accordance with the provisions and formulae in clauses 5.14, 5.15, 5.16 and 5.17 of the A Preference Share Terms, if as a result of:

- the operation or application of any Applicable Laws relating to Tax (being those Applicable Laws which were applicable as at the Reference Date), the A Preference Dividends are or become subject to any SA Tax in the hands of all the Resident Beneficiaries who are SA Corporates; or
- any amendment in the SA Tax Act (including the replacement of SA Tax Act with different legislation) or the introduction of any new Tax legislation which occurs after the Reference Date, the A Preference Dividends become subject to any SA Tax in the hands of all the Resident Beneficiaries who are SA Corporates;
- a Resident Beneficiary becoming liable for any Tax as a result only of the Issuer or any of its Subsidiaries becoming or being a "controlled foreign company", as defined in section 1 of the SA Tax Act, which decreases the Return to any such Resident Beneficiary in respect of the Outstanding A Preference Shares held by it;

- the SA Corporate Tax Rate increases or decreases; or
- any amendment in any law of Malta (including the replacement of any such a law with different legislation) which occurs after the Reference Date, the A Preference Dividends become subject to Tax, imposed by any one of Malta, in the hands of all the Resident Beneficiaries who are SA Corporates.

Increased Costs Event: The Company shall pay, in respect of the Outstanding A Preference Shares, an Additional A Dividend or adjust the Dividend Rate or the Default Dividend Rate, as the case may be, as may be necessary to compensate for the reduction in Return and to place the affected Beneficiary/ies in the same after-Tax position in respect of its A Preference Shares and/or ensure that all the affected Beneficiary/ies will receive at least the same Return, in either case, as if an Increased Costs Event had not occurred.

After the occurrence of an Adjustment Event, the Company shall be entitled to redeem:

- the A Preference Shares held by each Beneficiary requiring any Additional A Dividends or an adjustment to the Applicable Rates, provided that all the Affected Beneficiaries hold, in aggregate, less than 1/3 (one third) of the Outstanding A Preference Shares; or
- all the A Preference Shares held by each Affected Beneficiaries which requires Additional A Dividends or an adjustment to the Applicable Rates by more than 25 (twenty five) basis points.

### 3.4 Voting rights

The Holders are entitled to vote at any general meeting of the Shareholders if one of the following circumstances prevail at the date of such general meeting:

- any portion of the A Preference Dividends which is due and payable remains in arrear and unpaid;
- any portion of the Capital Distributions which is due and payable remains in arrear and unpaid;
- any portion of the A Redemption Final Payments which is due and payable remains in arrear and unpaid;
- any other resolution of the Company is proposed for the winding-up or liquidation, whether provisionally or finally, of the Company, or the reduction of the Company's capital.

At every general meeting at which the Holders are entitled to vote, as aforementioned, each A Preference Share shall confer on the Holder thereof such number of votes as is equal to 24,99% (twenty four comma nine nine percent) of the total voting rights exercisable at such general meeting, divided by the number of Outstanding A Preference Shares. In such instance, the Holders shall not vote as a separate class but shall vote together with the other Tradehold Shareholders.

### 3.5 Ranking and liquidation

The A Preference Dividends shall rank prior to the dividend rights of any other classes of shares in the Company's share capital. All the A Preference Shares form part of the same class of share and all A Preference Shares for which listing will be applied, will rank *pari passu* in respect of all rights.

Each A Preference Share shall, on liquidation of the Company, confer on its Holder a right to a return of capital in an amount equal to the aggregate of the A Redemption Final Payments and all the Accumulated A Dividends in respect of that A Preference Share. Such rights to a return of capital shall rank prior to the rights to a return of capital of all other classes of shares in the Company's share capital.

### 3.6 Regulatory redemption option

If any of the following Regulatory Event occurs which results in the A Preference Shares becoming more expensive for the Company or any of its Shareholders by more than 25 (twenty-five) basis points, the Company shall be entitled to redeem all (but not some) of the Outstanding A Preference Shares voluntarily:

- any change in the listings requirements of the JSE;
- any change in the exchange control regulations of South Africa, Luxembourg, England, Scotland or Malta;
- any change in the SA Tax Act or any other legislation which imposes any taxation of any nature whatsoever on the Issuer, in relation to the A Preference Shares, in Malta and/or South Africa; or

- any change in the Maltese Companies Act (Chapter 386 of the Laws of Malta), the SA Companies Act, the English Companies Act, 2006 and any other legislation, whether Maltese, English, Luxembourg or South African which deals with companies generally.

### 3.7 Financial Covenants and Equity Cure

The Company must, at all times, maintain the Financial Covenants, but may use subordinated shareholder funds ("SH Funds") so as to prevent a potential breach of Financial Covenants at the next measurement date. Any SH Funds introduced for this purpose must have repayment dates post the Scheduled A Redemption Date. Equity cures shall not be permitted (i) more than twice during the term of the A Preference Shares, and (ii) for any two consecutive measurement dates. The Company will not be entitled to use the proceeds of the SH Funds to redeem any portion of the A Preference Shares.

### 3.8 Trigger Events

If a Trigger Event occurs, and the Company fails to remedy the applicable Trigger Event within the relevant remedy period, the Company shall redeem all the Outstanding A Preference Shares. The Trigger Events are usual for these kinds of instruments, and include:

- the Company failing to declare and pay, on any Dividend Payment Date, an A Preference Dividends for any reason whatsoever;
- the Company failing to comply with any undertaking given by it to the Holders in terms of the Finance Documents;
- the Company failing to comply with any Financial Covenant;
- a Change of Control occurring without the prior written consent of the Preference Share Agent;
- certain insolvency events arising in relation to a Material Group Company;
- certain insolvency proceedings occurring in relation to a Material Group Company;
- the Company or any Material Group Company ceasing to carry on its business in the normal and ordinary course thereof;
- Tradegro or any Relevant Group Company incurring any Financial Indebtedness other than permitted under the A Preference Share Terms;
- Tradegro or any Relevant Group Company issuing, granting or giving any guarantee other than permitted under the A Preference Share Terms;
- the invalidity and/or unenforceability of any of the Group Documents, or any of the obligations or duties of Tradegro or any Relevant Group Company under any Group Document becoming illegal, invalid or unenforceable; and
- the Company, at any time, not having a legally valid and enforceable claim (in terms of a guarantee, indemnity, payment undertaking or otherwise) against each Relevant Group Company for payment of an amount at least equal to the lower of (i) the value as at the first Actual Issue Date or (ii) the market value of all the Properties owned by that Relevant Group Company, and which claim is secured by one or more legally valid and enforceable Relevant Group Company Charges against all such Property;
- any Relevant Group Company Charge is cancelled without a replacement Relevant Group Company Charge being entered into in respect of the Replacement Property;
- any Replacement Property is not owned by a Relevant Group Company;
- any asset of the Company or any Material Group Company being attached under a writ of execution;
- any Material Adverse Change occurring;
- the listing of any Outstanding A Preference Shares on the JSE being suspended or terminated without the prior written consent of the Preference Share Agent.

Appropriate remedy periods, where relevant, apply in respect of the Trigger Events.

#### 4. THE UNSPECIFIED PREFERENCE SHARES

It is proposed to create four classes of Unspecified Preference Shares, and to authorise a total number of 10,000,000 Unspecified Preference Shares in each such class. Each class of Unspecified Preference Shares is a class of shares as contemplated in section 36(1)(d) of the Companies Act, and the preferences, rights, limitations and other terms associated with the Unspecified Preference Shares must therefore be determined by the Board upon the issue thereof, as required by section 36(1)(d) of the Companies Act. The intention of the Board is that the Unspecified Preference Shares, when issued, will (as is the case with the A Preference Shares) be pure funding instruments and will have market related commercial and technical features, and that they shall rank in priority to the Ordinary Shares and the N Preference Shares in respect of distributions and on a winding-up.

The MOI currently provides that the Board does not have the power to determine the preferences, rights, limitations and other terms associated with any shares and that this power may only be exercised by Shareholders. It is accordingly proposed to amend the MOI to confer upon the Board the power and discretion contemplated in section 36(1)(d) of the Companies Act, but in addition to provide in the MOI that the Shareholders in general meeting may from time to time place restrictions on the authority of the Board to issue any class of shares, and any such power is subject to the Listings Requirements.

Therefore, without derogating from the powers of the Board to determine the applicable rights, privileges, restrictions and conditions attaching to the Unspecified Preference Shares, the Board proposes that shareholders pass a separate resolution in terms whereof the authority of the Board to issue Unspecified Preference Shares is (until such time as such authority is amended or revoked in general meeting) made subject to the following limitations:

- the authority will be valid for from the date of the Special General Meeting until the next annual general meeting of the Company;
- the maximum amount to be raised by the issue of Unspecified Preference Shares is R1,000,000,000;
- the Unspecified Preference Shares may only be issued if the Board is of the opinion, having taken into account prevailing conditions in the South African market for redeemable preference shares, that the commercial and technical terms and features of the shares are in all material respects arms' length and in line with current market norms (which for clarity will include, without limitation, that the shares will bear a market-related coupon, that they will have a fixed date of maturity, that they will rank in priority to the Ordinary Shares and the N Preference Shares in respect of distributions and on a winding up, and that they will have voting rights only in limited circumstances); and
- the Unspecified Preference Shares will be non-participating redeemable preference shares, i.e. the rate of dividends and returns payable in respect of the Unspecified Preference Shares will not be a function of the profitability of the Company,

and other than the Listings Requirements, there being no further limitations on the Board's authority (including on the price at which the Unspecified Preference Shares may be issued). The aforementioned restrictions are intended to protect shareholders from the Board having an open-ended ability to issue the Unspecified Preference Shares on any terms that they may determine.

It is not currently the intention of the Board to issue any Unspecified Preference Shares to persons who are related parties to the Company. However, in compliance with a requirement of the JSE, the Board's authority to issue the Unspecified Preference Shares is subject to the further restriction that, if any Unspecified Preference Shares are issued to a related party (as defined in paragraph 10.1 of the Listings Requirements of the JSE), the issue to such related party shall be subject to a fairness opinion from an independent expert acceptable to the JSE stating that the issue is fair insofar as the Ordinary Shareholders are concerned.

#### 5. RATIONALE FOR THE VAUGHAN TRANSACTION

Currently, Tradehold, via its shareholding in Tradegro Holdings and Tradegro, does not hold all the issued shares in Reward and MHLS. Tradehold wishes to acquire all the minority interests in Reward and MHLS in order for these entities to be fully accounted for in Tradehold. Following the acquisition of Vaughan's shares in MHLS, Tradehold will hold 95% of the shares in MHLS.

## 6. SALIENT TERMS OF VAUGHAN TRANSACTION

Pursuant to the Vaughan Agreement:

- Vaughan will sell to Tradegro the MHLS Shares for cash consideration of GBP1, and the Reward Shares for a mixture of cash in the amount of GBP187,237,20 and the issue by Tradegro to Vaughan of the Tradegro Shares;
- immediately after the issue of the Tradegro Shares to Vaughan, Vaughan will sell to Tradegro Holdings the Tradegro Shares in exchange for the issue by Tradegro Holdings to Vaughan of the Tradegro Holdings Shares; and
- immediately after the issue of the Tradegro Holdings Shares to Vaughan, Vaughan will sell to Tradehold the Tradegro Holding Shares in exchange for the issue by Tradehold to Vaughan of the Vaughan Shares.

Vaughan may not, during the Restricted Period, Dispose of the Restricted Vaughan Shares unless such Disposal:

- is with the prior consent of Tradehold, which consent may not be unreasonably withheld or delayed;
- follows the termination of Vaughan's employment with Tradehold or any of its subsidiaries in circumstances where he is a Good Leaver; or
- is pursuant to the acceptance of any general offer for the entire issued share capital of Tradehold or to the giving of an irrevocable undertaking to accept any such offer.

As indicated in the SENS announcement of 24 November 2014, the Vaughan Issue is a small related party transaction in terms of the Listings Requirements, and consequently requires a fairness opinion, but no shareholder approval is required. Furthermore, the Vaughan Issue constitutes an acquisition issue in terms of the Listings Requirements which also does not require shareholder approval.

## 7. PROCEDURE AND EFFECT

In terms of the Companies Act and the MOI, Tradehold may:

- create the proposed 65,000,000 A Preference Shares, and the 40,000,000 Unspecified Preference Shares, if approved, by a way of a 75% majority of Ordinary Shareholders and N Preference Shareholders present and entitled to vote at the Combined General Meeting, each having one vote per Share held. In addition, in terms of clause 9.2.1.10 of the MOI, the written consent of the holder of the N Preference Shares is required for the creation of the A Preference Shares and the Unspecified Preference Shares; and
- create the proposed 65,000,000 A Preference Shares and the 40,000,000 Unspecified Preference Shares, if approved, by a way of a 75% majority of N Preference Shareholders present and entitled to vote at the Special General Meeting, each having one vote per Share held.

In terms of section 10 of the Listings Requirements, the Vaughan Issue is deemed to be a small related party transaction with a director. An announcement was made on 24 November 2014 on SENS setting out the details of the Vaughan Issue in accordance with section 10 of the Listings Requirements.

The proposed resolutions will:

- effect an increase in the Company's share capital through the creation (authorisation) of 65,000,000 A Preference Shares;
- effect an increase in the Company's share capital through the creation (authorisation) of a total of 40,000,000 Unspecified Preference Shares;
- provide the Directors with an authority to issue A Preference Shares, subject to the restrictions described below;
- provide the Directors with an authority to issue Unspecified Preference Shares, subject to the restrictions described below;
- amend provisions of the MOI to give effect to the proposed resolutions; and
- authorise the Company to issue the Vaughan Shares to Vaughan in terms of section 41(1) of the Companies Act.



## 8. SHARE CAPITAL OF THE COMPANY

Tradehold's authorised and issued share capital at the date of this Circular, before the creation of the A Preference Shares and implementation of the Vaughan Transaction are as set out below:

	<b>R'000</b>
<b>Authorised</b>	
210,000,000 Ordinary Shares	2,100
89,250,000 N Preference Shares	892.5
<b>Issued</b>	
155,600,421 Ordinary Shares	1,894,413
57,391,218 N Preference Shares	574

**After** the increase of the creation of the A Preference Shares and implementation of the Vaughan Transaction, Tradehold's authorised and issued share capital are expected to be as set out below:

	<b>R'000</b>
<b>Authorised</b>	
210,000,000 Ordinary Shares	2,100
89,250,000 N Preference Shares	892,5
65,000,000 A Preference Shares	No par value
10,000,000 Class B Unspecified Preference Shares	No par value
10,000,000 Class C Unspecified Preference Shares	No par value
10,000,000 Class D Unspecified Preference Shares	No par value
10,000,000 Class E Unspecified Preference Shares	No par value
<b>Issued shares (before any further issues of A Preference Shares or Unspecified Preference Shares)</b>	
155,600,421 Ordinary Shares	1,894,413
57,391,218 N Preference Shares	574

## 9. AMENDMENTS TO THE MOI

The Board proposes that the MOI be amended to:

- reflect the creation of the A Preference Shares, in accordance with the amendments to the MOI contained in Annexure A.
- reflect the creation of the various classes of Unspecified Preference Shares;
- delete clauses 10.1.4 and 10.3.4 thereof which provide that the Shareholders, and not the Board, have the power to determine the rights, privileges, restrictions and conditions attaching to any shares, and to include an additional provision which enables the Shareholders in general meeting to limit the powers of the Board in connection with the issue of any shares, which power shall be subject to the Listings Requirements.

## 10. OPINION AND RECOMMENDATION

Bearing in mind the benefits that should arise from carrying out the capital raising, the Board has concluded that the creation and the issue of the A Preference Shares (subject to the proposed limitations), and the issue of the A Preference Shares (subject to further approval of Tradehold Shareholders) are in the interests of the Company and that the Tradehold Shareholders and N Preference Shareholders be asked to approve the resolutions set out in, respectively, the Notice of Combined General Meeting and the Special General Meeting.

The Directors recommend that Shareholders vote in favour of the resolutions as set out in this Circular. The Tradehold Directors intend voting their Tradehold Shares in favour of the resolutions.

## 11. **DIRECTORS' RESPONSIBILITY STATEMENTS**

The Directors, whose names appear on page 8 of this Circular:

- have considered all statements of fact and opinion in this Circular;
- collectively and individually accept full responsibility for the accuracy of the information given;
- certify that, to the best of their knowledge and belief, there are no other facts the omission of which would make any statement false or misleading;
- have made all reasonable enquiries in this regard; and
- certify that, to the best of their knowledge and belief, this Circular contains all information required by law and the MOI.

## 12. **CONSENTS**

Each of Bravura Capital Proprietary Limited, Rand Merchant Bank (a division of FirstRand Bank Limited), Cliffe Dekker Hofmeyr Inc. and Mettle Specialised Finance Proprietary Limited has provided its written consent to act in the capacity stated and to its name being used in this Circular and has not withdrawn its consent prior to the date of this Circular.

## 13. **DOCUMENTS AVAILABLE FOR INSPECTION**

The following documents, or copies thereof, will be available for inspection during normal business hours at the Registered Office as well as at offices of the Transfer Secretaries and the corporate advisors from the date of this Circular up to and including the date of the Combined General Meeting and the Special General Meeting:

- the Vaughan Agreement;
- this Circular;
- the existing MOI;
- a draft of the resolutions amending the MOI; and
- the written consents as set out in paragraph 12 above.

By order of the Board

**TRADEHOLD LIMITED**

**FM ver Loren Van Themaat**  
*Company Secretary*

24 November 2014

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## PROPOSED AMENDMENTS TO THE MEMORANDUM OF INCORPORATION

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The Board proposes the following amendments to the Memorandum of Incorporation of the Company (“**MOI**”):

### **PROPOSED AMENDMENT NO 1 – CLAUSE 1.2**

The Board proposes to amend clause 1.2 of the MOI by inserting the following new clause 1.2.1A immediately before the existing clause 1.2.1:

*‘1.2.1A “**A Preference Shares**” means a redeemable, cumulative class ‘A’ preference share with no nominal or par value in the Issuer’s share capital which has the rights and privileges set out in clause 9.3;’.*

### **PROPOSED AMENDMENT NO 2 – CLAUSE 1.2**

The Board proposes to amend clause 1.2.16 of the MOI by deleting the phrase ‘or “**Share**”.

### **PROPOSED AMENDMENT NO 3 – CLAUSE 1.2.25**

The Board proposes to amend clause 1.2.25 of the MOI by inserting the phrase ‘or an A Preference Share or an Unspecified Preference Share’ after the phrase ‘a Preference Shares’;

### **PROPOSED AMENDMENT NO 4 – CLAUSE 1.2**

The Board proposes to amend clause 1.2 of the MOI by inserting the following new clause 1.2.30 immediately before the existing clause 1.2.29:

*‘1.2.30 “**Unspecified Preference Shares**” means the 4 (four) classes of redeemable preference shares of no par value, having the rights, privileges, restrictions and conditions as determined by the Board upon issue thereof, but which are intended to rank in priority to the Preference Shares and Ordinary Shares in respect of dividends and on a winding up;’.*

### **PROPOSED AMENDMENT NO 5 – CLAUSE 9.3**

The Board proposes to amend the MOI by the inclusion of a new clause 9.3, to reflect the preferences, rights, limitations and other terms applicable to the A Preference Shares in the authorised share capital of the Company:

## **“9.3. PREFERENCES, RIGHTS, LIMITATIONS AND OTHER TERMS ASSOCIATED WITH CLASS ‘A’ CUMULATIVE REDEEMABLE PREFERENCE SHARES**

### **1. DEFINITIONS**

1.1 *In these A Preference Share Terms, unless inconsistent with or otherwise indicated by the context:*

1.1.1 *“**A Preference Dividends**” means, in respect of each A Preference Share, the applicable Scheduled A Dividends and Additional A Dividends;*

1.1.2 *“**A Preference Share**” means a redeemable, cumulative class ‘A’ preference share with no nominal or par value in the Issuer’s share capital which has the rights and privileges set out in the A Preference Share Terms, and “**A Preference Shares**” means all or some of them, as the context requires;*

1.1.3 *“**A Preference Share Terms**” means the rights and privileges set out in this document;*

1.1.4 *“**A Redemption Final Payments**” means, in respect of an A Preference Share and without double counting, the aggregate of:*

1.1.4.1 *the Subscription Price of that A Preference Share; plus*

1.1.4.2 *the Scheduled A Dividend for the Dividend Period which ends on the Actual A Redemption Date of that A Preference Share; plus*

1.1.4.3 *any Accumulated A Dividends in respect of that A Preference Share on its Actual A Redemption Date; less*

1.1.4.4 *any Capital Distribution in respect of that A Preference Share prior to the Actual A Redemption Date;*

- 1.1.5 **“Acceleration”** means any action taken or claim made by the Preference Share Agent pursuant to a Trigger Event that has the effect of accelerating the due date for redemption of the A Preference Shares, and **“Accelerate”**, **“Accelerated”** or any other derivative thereof shall be construed accordingly, as the context requires;
- 1.1.6 **“Acceleration Notice”** means a written notice delivered by the Preference Share Agent to the Issuer requiring immediate redemption of any and/or all the Outstanding A Preference Share;
- 1.1.7 **“Acceptable Bank”** means:
- 1.1.7.1 a bank or financial institution which has a rating for its long-term unsecured and non-credit enhanced debt obligations of BBB+ or higher by Standard & Poor’s Rating Services or Fitch Ratings Ltd or Baa1 or higher by Moody’s Investors Service Limited or a comparable rating from an internationally recognised credit rating agency; or
- 1.1.7.2 any other bank or financial institution approved by the Preference Share Agent;
- 1.1.8 **“Account Bank”** means an Acceptable Bank appointed by the Issuer from time to time;
- 1.1.9 **“Accounting Principles”** means generally accepted accounting principles in South Africa, including IFRS;
- 1.1.10 **“Accumulated A Dividends”** means, in respect of each A Preference Share and on any day, the aggregate of:
- 1.1.10.1 any Scheduled A Dividend for any prior Dividend Period which has not been paid by the Issuer by the Dividend Payment Date in respect of that Dividend Period; plus
- 1.1.10.2 any Additional A Dividends which the Issuer should have paid in terms of clause 5.11 of these A Preference Share Terms, but which the Issuer has failed to pay;
- 1.1.11 **“Actual Issue Date”** means, in relation to each A Preference Share, the date on which the Issuer issues that A Preference Share to its first Holder, which date shall coincide with a Dividend Payment Date;
- 1.1.12 **“Actual A Redemption Date”** means, in relation to each A Preference Share, the date (if any) on which the Issuer redeems that A Preference Share;
- 1.1.13 **“Additional A Dividend”** means, in respect of each A Preference Share, the dividends (over and above the Scheduled A Dividend in respect of that A Preference Share) envisaged in clause 5.14 of these A Preference Share Terms;
- 1.1.14 **“Adjustment Event”** means a Tax Adjustment Event and/or an Increased Costs Event;
- 1.1.15 **“Adjustment Notice”** has the meaning specified in clause 5.10;
- 1.1.16 **“Agency Matters”** has the meaning specified in clause 3.1;
- 1.1.17 **“Applicable Laws”** means, from time to time, any law (including statutory, common or customary law), statute, constitution, decree, treaty, regulation, judgment, directive, by-law, order, or other legislative measure, requirement, request or guidance (whether or not having the force of law but, if not having the force of law, is generally complied with by the person to whom it is addressed or applied) of any government, supranational, local government, statutory, regulatory or self-regulatory or similar body or authority or court;
- 1.1.18 **“Applicable Rate”** means the Dividend Rate or the Default Dividend Rate, as the context may indicate;
- 1.1.19 **“Approved Valuer”** means Knight Frank, CB Richard Ellis, Savills, Jones Lang Lasalle, or such other approved valuer as the Issuer and Preference Share Agent may agree to from time to time, provided that the Preference Share Agent may, by notice in writing to the Issuer from time to time, designate any additional person or entity as an Approved Valuer or determine that any person or entity is no longer an Approved Valuer;
- 1.1.20 **“Authorised User”** means each authorised user who (as envisaged in the Financial Markets Act) is authorised by the JSE to hold any A Preference Share for the Beneficiary of such A Preference Share;

- 1.1.21 **“Beneficiary”** means, in relation to an A Preference Share, the beneficial owner of that A Preference Share;
- 1.1.22 **“Broken Period”** means, in relation to an A Preference Share, the first Dividend Period of that A Preference Share and the final Dividend Period of that A Preference Share, in each case only to the extent they are less than 91 (ninety one) days;
- 1.1.23 **“Business Day”** means any day other than a Saturday, Sunday or statutory public holiday in either South Africa or Malta;
- 1.1.24 **“Capital Distribution”** means any Distribution made by the Issuer which results in a reduction of the stated capital arising upon the subscription for the A Preference Shares;
- 1.1.25 **“Cash”** means, on the last day of any Measurement Period, cash in hand or at bank and (in the latter case) credited to an account in the name of any Group Company with an Acceptable Bank and to which that Group Company is alone (or together with another Group Company) beneficially entitled and for so long as:
- 1.1.25.1 that cash is repayable on demand or within 30 (thirty) days after the relevant date of calculation;
- 1.1.25.2 repayment of that cash is not contingent on the prior discharge of any other indebtedness of any person whatsoever or on the satisfaction of any other condition other than notice or demand therefor;
- 1.1.25.3 there is no Security Interest over that cash constituted by a netting or set-off arrangement entered into by a Group Company in the ordinary course of its banking arrangements; and
- 1.1.25.4 the cash is freely and (except as permitted in clause 1.1.25.1) immediately available;
- 1.1.26 **“Cash Collection Account”** means the interest bearing bank account held by Tradegro (acting through its Swiss Branch, where applicable) with the Account Bank;
- 1.1.27 **“Cash Equivalent Investments”** means on the last day of any Measurement Period:
- 1.1.27.1 certificates of deposit maturing within 1 (one) year after the relevant date of calculation and issued by an Acceptable Bank;
- 1.1.27.2 any investment in marketable debt obligations issued or guaranteed by the government of South Africa, the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State, maturing within 1 (one) year after the relevant date of calculation and not convertible or exchangeable to any other security;
- 1.1.27.3 commercial paper not convertible or exchangeable to any other security:
- 1.1.27.3.1 for which a recognised trading market exists;
- 1.1.27.3.2 issued by an issuer incorporated in South Africa, the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State;
- 1.1.27.3.3 which matures within 90 (ninety) days after the relevant date of calculation; and
- 1.1.27.3.4 which has a credit rating of either A-1 or higher by Standard & Poor’s Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody’s Investors Service Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;
- 1.1.27.4 any investment in money market funds which (i) have a credit rating of either A-1 or higher by Standard & Poor’s Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody’s Investors Service Limited, (ii) which invest substantially all their assets in securities of the types described in clauses 1.1.27.3.1 to 1.1.27.3.4, and (iii) can be turned into cash on not more than 30 days’ notice; or

- 1.1.27.5 any other debt security approved by the Preference Share Agent, in each case, denominated in ZAR, USD, GBP or EUR, and to which any Group Company is alone (or together with other Group Company beneficially entitled at that time and which is not issued or guaranteed by any Group Company or subject to any Security Interest;
- 1.1.28 **“Change of Control”** means:
- 1.1.28.1 Titan Group, directly or indirectly, ceasing to Control Titan Premier; or
- 1.1.28.2 Titan Premier, directly or indirectly, ceasing to Control the Issuer; or
- 1.1.28.3 the Issuer, directly or indirectly, ceasing to Control Tradegro;
- 1.1.29 **“Clumber Park”** means Clumber Park LLP, registration number OC321529, a limited liability partnership duly incorporated in accordance with the laws of England and Wales;
- 1.1.30 **“Compliance Certificate”** means a certificate substantially in the form set out in Annexure “1” (Form of Compliance Certificate);
- 1.1.31 **“Constitutional Documents”** means the constitutional documents of a company;
- 1.1.32 **“Continuing”** means, in relation to a Trigger Event or a Potential Trigger Event, that it has occurred and that it has neither been remedied within the time period provided for such remedy in the applicable A Preference Share Terms, if any, nor waived by the Preference Share Agent;
- 1.1.33 **“Control”** means:
- 1.1.33.1 the power (whether by way of ownership of shares, proxy, contract, agency or otherwise), directly or indirectly, to:
- 1.1.33.1.1 cast, or control the casting of, more than 50% (fifty percent) of the maximum number of votes that might be cast at a general meeting of the shareholders of the Issuer or Tradegro, as the case may be; or
- 1.1.33.1.2 appoint or remove all, or the majority, of the directors or other equivalent officers of the Issuer or Tradegro, as the case may be; or
- 1.1.33.1.3 give directions with respect to the operating and financial policies of the Issuer or Tradegro, as the case may be with which the directors or other equivalent officers of the Issuer or Tradegro, as the case may be are obliged to comply; and/or
- 1.1.33.2 the holding beneficially of more than 50% (fifty percent) of the Equity Shares in the Issuer or Tradegro, as the case may be;
- 1.1.34 **“Debt to Equity Ratio”** means, on each Measurement Date, the ratio between Net Debt and Equity;
- 1.1.35 **“Decision”** means:
- 1.1.35.1 the agreement or disagreement to:
- 1.1.35.1.1 any proposed waiver (including the granting or withholding of any waiver); and
- 1.1.35.1.2 the giving or withholding of any consent, agreement or approval;
- 1.1.35.2 the decision as to:
- 1.1.35.2.1 whether or not to exercise any Remedy; or
- 1.1.35.2.2 the exercise or Enforcement or not of any other right, power or remedy; or
- 1.1.35.2.3 the making of any determination, notification or other decision or the giving of any instruction, in each case under, pursuant to or in respect of any of the provisions of the Finance Documents (and, where the context requires, “Decide”, “Decided” or any other derivative thereof shall be construed accordingly), to be made by the relevant Holder and in accordance with the further provisions of the A Preference Share Terms;

- 1.1.36 “**Decision Date**” means the date by which each of the Holders must provide the Preference Share Agent with instructions in relation to the Decision specified in the relevant Decision Request, such date being, the date falling 5 (five) Business Days after the date of a Decision Request (or, if a longer period is, in the reasonable opinion of the Preference Share Agent, required for purposes of making the applicable Decision, such later date as the Preference Share Agent may specify in the relevant Decision Request);
- 1.1.37 “**Decision Request**” means, in relation to any Decision, a notice from the Preference Share Agent to the Holders which specifies:
- 1.1.37.1 the Decision to be made;
- 1.1.37.2 whether the Decision is a Decision which is required to be made by all the Holders or by the Majority Holders;
- 1.1.37.3 all relevant facts and advice made available to the Preference Share Agent relating to such matter and the various voting options available to the relevant Parties; and
- 1.1.37.4 the Decision Date;
- 1.1.38 “**Default Dividend Rate**” means, subject to adjustment in accordance with the Rate Adjustment Clauses, a rate equal to the Dividend Rate plus 3% (three percent);
- 1.1.39 “**Dispose**” means any sale, lease, licence, transfer, loan, cession, assignment, alienation, donation, renunciation, surrender, waiver, relinquishment, exchange or other disposal of any nature whatsoever by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions); and “**Disposed**” or “**Disposal**” shall be construed accordingly;
- 1.1.40 “**Distribution**” means:
- 1.1.40.1 any distribution, as defined in section 1 of the SA Companies Act; or
- 1.1.40.2 any distribution of profits or capital made by a company to its shareholders, irrespective of the manner in which that distribution is made (and includes the declaration and payment of any dividend, the repurchase or redemption of any shares of any class and the payment of any interest and capital on any loans made by the shareholders of the applicable company); and
- 1.1.40.3 the payment of any interest or capital by a company in respect of any Financial Indebtedness which that company owes to any shareholder;
- 1.1.41 “**Dividend Payment Date**” means 1 March, 1 June, 1 September and 1 December of each year, with the first Dividend Payment Date being 1 March 2015;
- 1.1.42 “**Dividend Period**” means each 3 (three) month period which commences on a Dividend Payment Date, and which ends on the day before the next Dividend Payment Date, provided that:
- 1.1.42.1 the first Dividend Period in respect of any particular A Preference Share shall (i) commence on the Actual Issue Date on which the Issuer issues that A Preference Share to its first Holder, and (ii) end on the day before the first Dividend Payment Date which occurs after that Actual Issue Date; and
- 1.1.42.2 the last Dividend Period in respect of any particular A Preference Share shall be the period which (i) commences on the last Dividend Payment Date which occurs prior to the Actual A Redemption Date on which the Issuer redeems that A Preference Share, and (ii) ends on the day before that Actual A Redemption Date;
- 1.1.43 “**Dividend Rate**” means, subject to adjustment in accordance with the Rate Adjustment Clauses, a rate equal to:
- 1.1.43.1 72% (seventy two percent) of JIBAR, plus
- 1.1.43.2 the Margin;
- 1.1.44 “**EBITDA**” means, for each Measurement Period, earnings before interest, other finance charges, Tax, depreciation, amortisation and adjustments for fair value gains and losses for such Measurement Period, as determined in accordance with the Accounting Principles and as ascertained from the Reference Accounts for that Measurement Period;

- 1.1.45 **"Enforcement"** means:
- 1.1.45.1 any action taken or claim made by a Holder against the Issuer and to exercise all rights, powers, authorities, discretions and Remedies in connection therewith;
  - 1.1.45.2 the suing for, commencing or joining any legal or arbitration proceedings against the Issuer to recover any amount under the Finance Documents or to obtain or enforce any judgment against the Issuer arising from or in connection with any Finance Document; or
  - 1.1.45.3 the petitioning, applying for, voting for or taking of any steps (including the appointment of a liquidator, receiver, business rescue practitioner, administrator or similar officer) in relation to the winding up, dissolution, administration, placement under supervision or business rescue proceedings or reorganisation of the Issuer or any suspension of payments or moratorium of any indebtedness of the Issuer or any analogous procedure or step, and **"Enforce"**, **"Enforced"** or any other derivative thereof shall be construed accordingly, as the context requires;
- 1.1.46 **"Equity"** means, on each Measurement Date, and as ascertained from the Reference Accounts for the relevant Measurement Period, the aggregate of share capital and share premium in respect of Ordinary Shares, subordinated shareholder loans, and distributable and non-distributable reserves (excluding any revaluation reserves);
- 1.1.47 **"Equity Cure"** has the meaning set out in clause 8.3;
- 1.1.48 **"Equity Cure Funding"** means funding provided to the Issuer in the form of loans subordinated, or in the form of share capital, or in the form of a combination of such subordinated loans and share capital, for the purpose of avoiding the occurrence of a breach of the Financial Covenants, alternatively for the purpose of remedying a Potential Trigger Event of the nature contemplated in clause 12.9 which has occurred, in the latter instance subject always to the provisions of clause 8.3;
- 1.1.49 **"Equity Share"** means any share in a company excluding any share that, neither as respects dividends nor as respects returns of capital, carries any right to participate beyond a specified amount in a Distribution;
- 1.1.50 **"EUR"**, **"€"** or **"Euro"** means Euro, the lawful currency of the European Union;
- 1.1.51 **"Final Discharge Date"** means the date which is 5 (five) years following the date upon which the last A Preference Share is redeemed;
- 1.1.52 **"Finance Documents"** means:
- 1.1.52.1 the A Preference Share Terms;
  - 1.1.52.2 the Offering Circular;
  - 1.1.52.3 the Issuer Creation Resolution;
  - 1.1.52.4 any other document which is designated as a Finance Document by agreement between the Preference Share Agent and the Issuer, and "Finance Document" shall refer to any one of them, as the context may indicate;
- 1.1.53 **"Financial Covenants"** means the financial covenants and ratios set out in clause 8;
- 1.1.54 **"Financial Indebtedness"** means, without double counting, any indebtedness for or in respect of:
- 1.1.54.1 moneys borrowed or credit obtained;
  - 1.1.54.2 any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
  - 1.1.54.3 any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument, including the A Preference Shares;
  - 1.1.54.4 any amount raised pursuant to any issue of shares which are expressed to be redeemable at the instance of the holder of such shares;



- 1.1.54.5 any liability in respect of any lease, hire purchase contract or licence agreement which would, in accordance with the Accounting Principles, be treated as a finance or capital lease;
- 1.1.54.6 any liability in respect of any advance or deferred purchase agreement if one of the primary reasons for entering into such agreement is to raise finance or if such agreement is not in the ordinary course of business;
- 1.1.54.7 receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- 1.1.54.8 any agreement or option to re-acquire an asset if one of the primary reasons for entering into such agreement or option is to raise finance;
- 1.1.54.9 any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- 1.1.54.10 any Treasury Transaction and, for the purpose of calculating the amount of any person's Financial Indebtedness, a Treasury Transaction shall be valued at an amount equal to (i) the marked to market value thereof, plus (ii) if an amount owing by that person under the applicable Treasury Transaction has not been paid, that amount;
- 1.1.54.11 any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- 1.1.54.12 any liability in respect of any guarantee, indemnity or suretyship for any of the items referred to in clauses 1.1.54.1 to 1.1.54.11;
- 1.1.55 **"Financial Markets Act"** means the South African Financial Markets Act, No 19 of 2012;
- 1.1.56 **"Financial Statements"** means:
  - 1.1.56.1 in respect of the Issuer, audited annual consolidated (if applicable) financial statements, including the notes (if any) thereto; and
  - 1.1.56.2 in respect of any other Group Company, annual finance statements (audited, if prepared) certified by two directors of such Group Company;
- 1.1.57 **"Financial Year"** means each one of the Issuer's financial years;
- 1.1.58 **"GBP", "£" or "Pound Sterling"** means British Pound Sterling, the lawful currency of the United Kingdom;
- 1.1.59 **"Gross-up Notice"** has the meaning specified in clause 5.8.3;
- 1.1.60 **"Group"** means the Issuer and each of its Subsidiaries;
- 1.1.61 **"Group Company"** means a member of the Group, and **"Group Companies"** means all or some of them, as the context requires;
- 1.1.62 **"Group Documents"** means:
  - 1.1.62.1 the Tradegro Facility Agreement;
  - 1.1.62.2 the Tradegro Hedging Agreement;
  - 1.1.62.3 each Relevant Group Company Guarantee;
  - 1.1.62.4 each Relevant Group Company Charge,

and **"Group Document"** shall refer to any one of them, as the context may indicate;
- 1.1.63 **"Group Structure Chart"** means the group structure chart in the agreed form setting out the structure of the Group as at the first Actual Issue Date;
- 1.1.64 **"Half Year"** means the first 6 (six) calendar months of each Financial Year;
- 1.1.65 **"Hedge Counterparty"** means the counter-party under the Tradegro Hedging Agreement;

- 1.1.66 **"Hedged Exchange Rate"** means the ZAR: GBP (ZAR per GBP) rate of exchange, as set out in:
- 1.1.66.1 any Tradeagro Hedging Agreement which was entered into prior to the first Actual Issue Date, as restructured to extend the term and amend the rate of exchange to cover the remaining term of the Tradeagro Facility Agreement; and
- 1.1.66.2 each Tradeagro Hedging Agreement which is entered into following the first Actual Issue Date, at which the Hedge Counterparty and Tradeagro (acting through its Swiss Branch, where applicable) will exchange ZAR amounts for GBP amounts on each date on which the Issuer makes further advances on account of the Tradeagro Loan to Tradeagro (acting through its Swiss Branch, where applicable) in terms of the Tradeagro Facility Agreement;
- 1.1.67 **"Holder"** means, in relation to an A Preference Share, the registered holder of that A Preference Share;
- 1.1.68 **"IFRS"** means the International Financial Reporting Standards, as adopted from time to time by the Board of the International Accounting Standards Committee, or its successor body, and approved for use in South Africa from time to time by the Financial Reporting Standards Council established in terms of section 203 of the SA Companies Act;
- 1.1.69 **"Inception"** means Inception S.à r.l, a limited liability company (société à responsabilité limitée), with registration number B 161.565 and with a share capital of EUR12,500, duly incorporated in accordance with the laws of Luxembourg;
- 1.1.70 **"Increased Costs Event"** means any of the following events:
- 1.1.70.1 if, for so long as there is one or more Beneficiary which is both (i) a SA Corporate and (ii) a bank, or a financial institution duly registered as such with any statutory or monetary authority, or a Subsidiary of such bank or financial institution, each time there is any:
- 1.1.70.1.1 proposal or measure implemented pursuant to any version of the International Convergence of Capital Measurement and Capital Standards (Basel Accord) on a basis materially different to that which is in force as at the Reference Date;
- 1.1.70.1.2 directive of any central bank or any other fiscal, monetary, regulatory or other authority in South Africa having jurisdiction in respect of such bank, financial institution or Subsidiary, as the case may be;
- 1.1.70.1.3 change in practice as it affects or is applied generally by such banks, financial institutions or Subsidiaries, as the case may be, in South Africa;
- 1.1.70.1.4 requirement or request by any central bank or statutory or monetary authority with which such banks, financial institutions or Subsidiaries, as the case may be, in South Africa generally comply, to pay any amounts or maintain any special deposits or reserve assets in addition to those paid or maintained or reserved by the relevant Holder at the Reference Date; or
- 1.1.70.1.5 compliance by the relevant Beneficiary with any reserve, cash ratio, special deposit, capital adequacy or liquidity requirement (or any other similar requirement) whether or not having the force of law, in respect of the relevant Outstanding A Preference Shares, with which such banks, financial institutions or Subsidiaries, as the case may be, in South Africa generally comply in addition to those applicable as at the Reference Date,
- which is applicable to any such Beneficiary, and which decreases the Return to that Beneficiary; and
- 1.1.70.2 if, for so long as there is one or more Beneficiary which is both (i) a SA Corporate and (ii) a bank, or a financial institution duly registered as such with any statutory or

monetary authority, or a Subsidiary of such bank or financial institution, each time there is any change in Applicable Law or in the interpretation or general application thereof (whether in force before or after the Actual Issue Date), or the introduction of any new Applicable Law, which increases or decreases the Return to any such Beneficiary in respect of the Outstanding A Preference Shares held by it, including as a result of any event which reduces the after-Tax A Preference Dividend receipt by the relevant Beneficiary in respect of the relevant A Preference Dividends (even if not all the Beneficiaries suffer such decrease in Return),

other than an event which also constitutes a Tax Adjustment Event;

1.1.71 **“Interest Cover Ratio”** means, for each Measurement Period, the consolidated EBITDA of the Group for that Measurement Period divided by Net Finance Charges for that Measurement Period;

1.1.72 **“Interim Discharge Date”** means, in relation to the A Preference Shares, the Actual A Redemption Date on which the Issuer redeems the last Outstanding A Preference Share, provided that the Issuer has:

1.1.72.1 paid the A Preference Dividends in respect of all the A Preference Shares; and

1.1.72.2 paid all other amounts which have become due and payable by it to the Holders on account of the A Preference Shares and under the Finance Documents;

1.1.73 **“Internally Generated Cash Flows”** means the Issuer’s internally generated cash flows from time to time, including Distributions received on account of the Issuer’s holding in any of the Group Company, and/or the Disposal of Equity Shares in a Group Company, and/or the Disposal of any Property by a Group Company, but specifically excluding:

1.1.73.1 the proceeds received by the Issuer pursuant to the issue of any shares;

1.1.73.2 the proceeds from a Refinancing; and

1.1.73.3 the proceeds of any Financial Indebtedness directly or indirectly incurred by the Issuer;

1.1.74 **“Issuer”** means Tradehold Limited, registration number 1970/009054/06, a limited liability company duly incorporated in accordance with the laws of South Africa;

1.1.75 **“Issuer Account”** means the following bank account:

Account name:	Tradehold Ltd
Bank:	First National Bank
Branch:	204109
Account number:	62021520566

1.1.76 **“Issuer Board”** means the board of directors of the Issuer;

1.1.77 **“Issuer Creation Resolution”** means a resolution by the Issuer which creates at least 65,000,000 (sixty five million) A Preference Shares;

1.1.78 **“JIBAR”** means, on each relevant Quotation Date for a Dividend Period:

1.1.78.1 the applicable Screen Rate; or

1.1.78.2 (if no Screen Rate is available on a Quotation Date or for the Dividend Period of that A Preference Share) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Preference Share Agent, at its request, quoted by the Reference Banks to leading banks in the Johannesburg interbank market, as of 11:00 on the Quotation Date for the offering of deposits in ZAR for a period comparable to the Dividend Period; provided that for any Broken Period, JIBAR shall be determined by the Preference Share Agent in accordance with the following formula:

$$r = r1 + (t- t1) \times (r2-r1)/(t2-t1)$$

where:

r represents JIBAR to be determined for that Broken Period;

*r1 represents JIBAR for the period closest to but less than the Broken Period plus, if this would result in r1 being equal to the JIBAR Overnight Deposit Rate, 0.01% (zero point zero one percent);*

*r2 represents JIBAR for the period closest to but greater than the Broken Period;*

*t1 represents the number of days applicable to the period for which r1 is quoted on the first day of the Broken Period;*

*t2 represents the number of days applicable to the period for which r2 is quoted on the first day of the Broken Period; and*

*t represents the number of days in the Broken Period;*

1.1.79 **“JIBAR Overnight Deposit Rate”** means, on any relevant date for its determination, the rate for overnight deposits in Rand which appears on the Reuters Screen SAFETY Page alongside the caption “SFXROD” as of 11:00, Johannesburg time on that date;

1.1.80 **“JSE”** means the securities exchange known as the JSE (which has been licensed as an exchange in terms of the Financial Markets Act), owned and operated by the JSE Limited, registration number 2005/022939/06;

1.1.81 **“Loan to Value Ratio”** means, for each Measurement Period, the ratio between:

1.1.81.1 the consolidated Financial Indebtedness of:

1.1.81.1.1 the Issuer;

1.1.81.1.2 Tradegro;

1.1.81.1.3 each Relevant Group Company;

1.1.81.1.4 Inception;

1.1.81.1.5 New UK PropCo; and

1.1.81.1.6 any other Group Company that owns any Property in the United Kingdom,

on the last day of such Measurement Period, excluding Financial Indebtedness pursuant to inter-company loans, and

1.1.81.2 the Portfolio Market Value on the last day of the Measurement Period plus the market value of the Properties owned by the entities listed in clauses 1.1.81.1.1 to 1.1.81.1.6 which are located in the United Kingdom, as reflected in the most recent Financial Statements;

1.1.82 **“London Office”** means London Office S.à r.l, a limited liability company (société à responsabilité limitée), with registration number B 183.145 and with a share capital of EUR12,500, duly incorporated in accordance with the laws of Luxembourg;

1.1.83 **“Luxembourg”** means the Grand-Duchy of Luxembourg;

1.1.84 **“Majority Holders”** means a Holder or Holders who hold/s more than 2/3 (two thirds) of the Outstanding A Preference Shares;

1.1.85 **“Malta”** means the Republic of Malta;

1.1.86 **“Margin”** means 2.65% (two comma six five percent);

1.1.87 **“Material Adverse Change”** means the occurrence of any facts, events and/or circumstances, or combination of facts, events and/or circumstances, which has, or is reasonably likely to have, a material adverse effect on:

1.1.87.1 the business, operations, property, condition (whether financial or otherwise) and/or the prospects of the Issuer and/or Tradegro (acting through its Swiss Branch, where applicable), and/or any Relevant Group Company and/or the Group taken as a whole, and/or

1.1.87.2 the ability of the Issuer to comply with its obligations or undertakings arising under any of the Finance Documents to which it is a party; and/or

- 1.1.87.3 *the validity and/or enforceability of any of the Finance Documents (or any of them), or the rights or remedies of the Holders under the Finance Documents;*
- 1.1.88 **“Material Group Company”** means, at any time:
- 1.1.88.1 *any New UK PropCo;*
- 1.1.88.2 *Inception;*
- 1.1.88.3 *Reward;*
- 1.1.88.4 *any Restricted Entity; or*
- 1.1.88.5 *any, direct or indirect, Subsidiary (including any non-wholly-owned Subsidiary) of the Issuer which has:*
- 1.1.88.6 *Net Asset Value representing 5% (five percent) or more of the consolidated Net Asset Value of the Group; or*
- 1.1.88.7 *earnings before interest, Tax, depreciation and amortisation (calculated on the same basis as EBITDA) representing 5% (five percent) or more of the consolidated EBITDA of the Group,*
- and whether a Subsidiary meets the criteria set out in clause 1.1.88.5 shall be determined with reference to the most recent Financial Statements of that Subsidiary (consolidated in the case of a Subsidiary which itself has Subsidiaries) and the latest consolidated Financial Statements of the Group;*
- 1.1.89 **“Measurement Dates”** means 28 February and 31 August of each year, and **“Measurement Date”** means either one of such dates, as the context requires;
- 1.1.90 **“Measurement Period”** means each period of 12 (twelve) months ending on a Measurement Date;
- 1.1.91 **“Memorandum of Incorporation”** shall have the meaning ascribed thereto in the SA Companies Act;
- 1.1.92 **“Moorgarth Investments”** means Moorgarth Properties Investments Ltd, registration number 6545410, a limited liability company duly incorporated in accordance with the laws of England and Wales;
- 1.1.93 **“Moorgarth Holdings”** means Moorgarth Holdings (Luxembourg) S.à r.l., a limited liability company (société à responsabilité limitée), with registration number B 156.358 and with a share capital of GBP12,500, duly incorporated in accordance with the laws of Luxembourg;
- 1.1.94 **“Moorgarth Leisure”** means Moorgarth Leisure Ltd, registration number 05953379, a limited liability company duly incorporated in accordance with the laws of England and Wales;
- 1.1.95 **“Moorgarth Props (Lux)”** means Moorgarth Properties (Luxembourg) S.à r.l., a limited liability company (société à responsabilité limitée), with registration number B 99.868 and with a share capital of GBP4,859,850, duly incorporated in accordance with the laws of Luxembourg;
- 1.1.96 **“Moorgarth Props (UK)”** means Moorgarth Properties Ltd, registration number 06545410, a limited liability company duly incorporated in accordance with the laws of England and Wales;
- 1.1.97 **“N Preference Shares”** means non-participating, non-convertible, non-transferable redeemable preference shares with a par value of R0.01 (one cent) each in the share capital of the Issuer;
- 1.1.98 **“Net Debt”** means, on the last day of each Measurement Period, the Group’s consolidated Financial Indebtedness minus the aggregate amount of Cash and Cash Equivalent Investments held by any Group Company at that time;
- 1.1.99 **“Net Asset Value”** means assets (fairly valued) less liabilities (fairly valued), but excluding assets and liabilities arising from any inter-company loans;

- 1.1.100 **“Net Finance Charges”** means, for any Measurement Period:
- 1.1.100.1 the consolidated amount of the accrued interest (excluding any development finance charges which are capitalised to the loan balance until completion of the development), commission, fees, discounts, prepayment fees, premiums, dividends or charges and other finance payments in respect of Financial Indebtedness paid or payable by any Group Company (calculated on a consolidated basis) in cash or capitalised in respect of that Measurement Period; minus
  - 1.1.100.2 any interest received in that Measurement Period by any Group Company (other than from another Group Company pursuant to an inter-company loan);
- 1.1.101 **“New Africa PropCo”** means a New PropCo which owns a Property in Africa;
- 1.1.102 **“New PropCo”** means each Subsidiary of the Issuer, other than a Relevant Group Company, incorporated or acquired for purposes of holding a Property, other than a Replacement Property;
- 1.1.103 **“New UK PropCo”** means a New PropCo which owns a Property in the United Kingdom;
- 1.1.104 **“Nominee”** means each nominee who holds any A Preference Share in custody for the beneficiary of such A Preference Share whether as contemplated in section 76 of the Financial Markets Act or otherwise;
- 1.1.105 **“Nordic Lime”** means Nordic Lime Street S.à r.l, a limited liability company (société à responsabilité limitée), with registration number B 170.671 and with a share capital of GBP2,392,000, duly incorporated in accordance with the laws of Luxembourg;
- 1.1.106 **“OFAC Sanctions”** means sanctions imposed from time to time by the Office of Foreign Assets Control of the Department of Treasury of the United States of America;
- 1.1.107 **“Offering Circular”** means an offering circular in respect of the Preference Share Programme to be issued by the Issuer (and which incorporates these A Preference Share Terms);
- 1.1.108 **“Ordinary Share”** means ordinary shares in the Issuer’s share capital;
- 1.1.109 **“Outstanding A Preference Shares”** means, at any time, any A Preference Shares which have not been redeemed by the Issuer at that time in accordance with the A Preference Share Terms;
- 1.1.110 **“Participant”** means each central securities depository participant who (as envisaged in section 31 of the Financial Markets Act) holds any A Preference Share in custody for the Beneficiary or Authorised User of a Beneficiary of such A Preference Share;
- 1.1.111 **“Participating Member State”** means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union;
- 1.1.112 **“Permitted Guarantee”** means:
- 1.1.112.1 any guarantee or indemnity arising under the Finance Documents or the Group Documents;
  - 1.1.112.2 any guarantee permitted pursuant to any Permitted Indebtedness; and
  - 1.1.112.3 any other guarantee given with the prior approval of the Preference Share Agent;
- 1.1.113 **“Permitted Indebtedness”** means:
- 1.1.113.1 any Financial Indebtedness owing by any Restricted Entity (other than the Issuer) to another Restricted Entity on account of inter-company loans made by Restricted Entity to such other Restricted Entity;
  - 1.1.113.2 any Financial Indebtedness incurred by any Group Company, other than the Issuer, under Permitted Trade Credit;
  - 1.1.113.3 any Financial Indebtedness which the Issuer incurs by issuing further redeemable preference shares (including any A Preference Shares issued in terms of the Preference Share Programme after the first Actual Issue Date) in the share capital of the Issuer, provided that the Majority Holders have approved the issue of such redeemable preference shares;

- 1.1.113.4 any Financial Indebtedness which any Group Company (other than a Restricted Entity) incur, provided that the provider/s of such Financial Indebtedness shall have no recourse to any Restricted Entity;
- 1.1.113.5 any Financial Indebtedness which the Issuer incurs under the Finance Documents;
- 1.1.113.6 any Financial Indebtedness which a Restricted Entity incurs under the Group Documents;
- 1.1.113.7 the existing Financial Indebtedness incurred by Tradegro (acting through its Swiss Branch, where applicable) to UBS AG in an amount of approximately CHF9,500,000 (nine million five hundred thousand Swiss Francs) plus accrued interest, provided that any Security Interest granted in respect of such Financial Indebtedness is limited to shares held by Tradegro (acting through its Swiss Branch, where applicable) in UBS AG and such cash of Tradegro (acting through its Swiss Branch, where applicable) on the first Actual Issue Date plus accrued interest, and UBS AG has no recourse to any Group Company;
- 1.1.113.8 any Financial Indebtedness which the Issuer or any other Group Company incurs for purposes of a Refinance, provided that all, and not only some of, the Outstanding A Preference Shares are redeemed from the proceeds of such Financial Indebtedness; and
- 1.1.113.9 any Financial Indebtedness which the Issuer or any other Group Company incurs with the prior written approval of the Preference Share Agent;
- 1.1.114 **"Permitted Loans"** means:
- 1.1.114.1 any loan made by the Issuer in terms of the Group Documents;
- 1.1.114.2 any loan made by the Issuer prior to the first Actual Issue Date; and
- 1.1.114.3 any loan made by the Issuer with the prior approval of the Majority Holders;
- 1.1.115 **"Permitted Security Interest"** means any Security Interest:
- 1.1.115.1 created under any Finance Document or the Group Documents;
- 1.1.115.2 created over the assets of a Group Company other than a Restricted Entity or created by a Group Company other than a Restricted Entity over any new assets acquired by it on account of any Permitted Financial Indebtedness incurred by the relevant entity in which the new assets are held;
- 1.1.115.3 created with the prior written approval of the Preference Share Agent;
- 1.1.115.4 created by Tradegro (acting through its Swiss Branch, where applicable) in respect of the Financial Indebtedness contemplated in clause 1.1.113.7, provided that such Security Interest is limited to shares held by Tradegro (acting through its Swiss Branch, where applicable) in UBS AG and the cash of Tradegro contemplated in clause 1.1.113.7 on the first Actual Issue Date plus accrued interest (acting through its Swiss Branch, where applicable), and UBS AG has no recourse to any Group Company; or
- 1.1.115.5 arising pursuant to the operation of law in the normal and ordinary course of the Issuer's or any other Group Company's business;
- 1.1.116 **"Permitted Trade Credit"** means trade credit which:
- 1.1.116.1 is payable within 90 (ninety) days;
- 1.1.116.2 is entered into in the ordinary course of the day-to-day business of the relevant entity; and
- 1.1.116.3 is on the relevant supplier's standard terms;
- 1.1.117 **"Portfolio"** means the portfolio of Properties owned by Relevant Group Companies from time to time, which shall, initially, be those Properties listed in Annexure "2" (Initial Portfolio);
- 1.1.118 **"Portfolio Market Value"** means, on any day, subject to clause 10.6, the market value of the Portfolio, being the lower of the value as reflected in the most recent Financial Statements of the Issuer and the Valuation in terms of clause 10.6.2;

- 1.1.119 **“Potential Trigger Event”** means the occurrence of any facts, events and/or circumstances which will become a Trigger Event if those facts, events and/or circumstances are not remedied:
- 1.1.119.1 within the applicable grace period (if any) stipulated in the A Preference Share Terms; or
- 1.1.119.2 after any notice required by the applicable A Preference Share Terms has been given and has expired;
- 1.1.120 **“Preference Dividend Cover Ratio”** means, for each Measurement Period:
- 1.1.120.1 the aggregate EBITDA of the Relevant Group Companies (calculated on a consolidated basis, i.e. excluding any interest paid and received by Relevant Group Companies pursuant to inter-company loans) for that Measurement Period, divided by
- 1.1.120.2 the aggregate amount of the A Preference Dividends due and payable in respect of that Measurement Period;
- 1.1.121 **“Preference Share Agent”** means RMB, or such other persons may be appointed as Preference Share Agent from time to time in accordance with clause 3.36, 3.36 or 3.38;
- 1.1.122 **“Preference Share Programme”** means a programme on which the Issuer has embarked, pursuant to which the Issuer could:
- 1.1.122.1 issue A Preference Shares with aggregate Subscription Prices of up to ZAR650,000,000 (six hundred and fifty million Rand); and
- 1.1.122.2 list the A Preference Shares thus issued by it on the JSE;
- 1.1.123 **“Preference Share Purpose”** means the requirement that the proceeds of the issue of the A Preference Shares must be applied, to advance loans to Tradegro (acting through its Swiss Branch, where applicable) in terms of the Tradegro Facility Agreement and to repay any amounts due by the Issuer to RMB;
- 1.1.124 **“Preference Share to Value Ratio”** means, for each Measurement Period, the ratio between:
- 1.1.124.1 the aggregate Subscription Prices less any Capital Distributions of the Outstanding A Preference Shares on the last day of such Measurement Period, and
- 1.1.124.2 the Portfolio Market Value on the last day of the Measurement Period;
- 1.1.125 **“Properties”** means the immovable properties owned by the Group, and shall include any Replacement Property, and **“Property”** shall refer to any one of them, as the context may indicate;
- 1.1.126 **“Quotation Date”** means in relation to any period for which a dividend rate is to be determined, the first day of that period;
- 1.1.127 **“Rate Adjustment Clauses”** means clauses 5.14, 5.15 and 5.16 of these A Preference Share Terms;
- 1.1.128 **“Realisation Proceeds”** means proceeds, less any realisation costs, received by a Relevant Group Company from the Disposal of a Property;
- 1.1.129 **“Reference Accounts”** means, for each Measurement Period:
- 1.1.129.1 for purposes of measuring the Loan to Value Ratio, the Debt to Equity Ratio and the Interest Cover Ratio, if that Measurement Period:
- 1.1.129.1.1 ends on the last day of a Financial Year, the Issuer’s consolidated Financial Statements for that Financial Year; or
- 1.1.129.1.2 ends on the last day of a Half Year, the Issuer’s unaudited financial statements for the first 6 (six) calendar months of the then current Financial Year and the Issuer’s Financial Statements for the previous Financial Year after the results of the first 6 (six) calendar months of the previous Financial Year have been extracted therefrom;



- 1.1.129.2 for purposes of measuring the Preference Share to Value Ratio and the Preference Dividend Cover Ratio, the Relevant Group Companies' management accounts for the applicable Measurement Period, provided that the Portfolio Market Value used in the calculation of any Financial Covenant shall be the lower of (i) the value attributed thereto in the most recent Financial Statements of the Relevant Group Companies at the time that such value is determined and (ii) the value attributed thereto in any Valuation performed pursuant to clause 10.6, provided such Valuation was delivered not more than 12 (twelve) months prior to the applicable Measurement Date;
- 1.1.130 "**Redemption Notice**" has the meaning specified in clause 5.9.2;
- 1.1.131 "**Reference Banks**" means Absa Bank Limited, FirstRand Bank Limited, Nedbank Limited, and The Standard Bank of South Africa Limited or such other bank or banks as may from time to time be agreed in writing between the Issuer and the Preference Share Agent;
- 1.1.132 "**Reference Date**" means 1 December 2014;
- 1.1.133 "**Refinancing**" means the repayment, prepayment or replacement of the A Preference Shares (in whole) funded by way of the incurral by the Issuer or any Group Company of indebtedness from, or the issue of shares by the Issuer, any Group Company or any such other person to, any third party (and for purposes of this clause 1.1.33 Titan Group and any company which is a Subsidiary or Holding Company of Titan Group shall not be regarded as a third party), and "**Refinance**" and "**Refinanced**" shall be construed accordingly;
- 1.1.134 "**Refinance A Dividend Date**" means, in relation to the Refinance A Preference Dividend, the date contemplated in clause 5.6;
- 1.1.135 "**Refinance A Preference Dividend**" means, subject to clause 5.7, the following preference cash dividend in respect of each A Preference Share redeemed from the proceeds of a Refinancing:
- 1.1.135.1 3% (three percent) of the Subscription Price less any Capital Distribution of each A Preference Share redeemed during the period from (and including) the first Actual Issue Date to (and including) 28 February 2016;
- 1.1.135.2 2% (two percent) of the Subscription Price less any Capital Distribution of each A Preference Share redeemed during the period from (but excluding) 1 March 2016 to (and including) 28 February 2017; and
- 1.1.135.3 0% (zero percent) of the Subscription Price of each A Preference Share redeemed thereafter;
- 1.1.136 "**Regulatory Event**" means any change in:
- 1.1.136.1 the listing requirements of the JSE;
- 1.1.136.2 the exchange control regulations of South Africa, Luxembourg, England, Scotland or Malta;
- 1.1.136.3 the SA Tax Act or any other legislation which imposes any taxation of any nature whatsoever on the Issuer, in relation to the A Preference Shares, in Malta and/or South Africa; or
- 1.1.136.4 the Maltese Companies Act (Chapter 386 of the Laws of Malta), the SA Companies Act, the English Companies Act, 2006 and any other legislation, whether Maltese, English, Luxembourg or South African which deals with companies generally;

- 1.1.137 **“Relevant Group Company”** means each of:
- 1.1.137.1 Moorgarth Props (Lux);
  - 1.1.137.2 Moorgarth Props (UK);
  - 1.1.137.3 Moorgarth Investments;
  - 1.1.137.4 Moorgarth Leisure;
  - 1.1.137.5 St Catherines (1);
  - 1.1.137.6 Nordic Lime;
  - 1.1.137.7 London Office;
  - 1.1.137.8 any company, corporation, partnership or entity within the Group which owns a Replacement Property from time to time,
  - 1.1.137.9 Clumber Park; and
  - 1.1.137.10 River Street,
- and **“Relevant Group Companies”** shall refer to all of them, as the context may indicate;
- 1.1.138 **“Relevant Group Company Charge”** means each written charge entered into from time to time between a Relevant Group Company which owns a Property and the Issuer in terms whereof the Relevant Group Company grants a charge against the Property held by such Relevant Group Company, including any Replacement Property, and assigns in security to the Issuer all its rights title and interests in and to lease agreements and insurance policies entered into from time to time by such Relevant Group Company as security for the due and proper compliance by such Relevant Group Company under the applicable Relevant Group Company Guarantee and for any other obligations which it may from time to time owe to the Issuer;
- 1.1.139 **“Relevant Group Company Guarantee”** means each written guarantee agreement entered into from time to time between each Relevant Group Company and the Issuer in terms whereof the Relevant Group Company guarantees, as a principal obligation, the due and proper compliance by Tradegro (acting through its Swiss Branch, where applicable) of its obligations to the Issuer under the Tradegro Facility Agreement;
- 1.1.140 **“Remedy”** means any remedy or right provided in or conferred by the Finance Documents (including Acceleration) or otherwise arising at law, equity or otherwise, and where the context requires, **“Remedies”** shall be construed accordingly;
- 1.1.141 **“Replacement Property”** means any new immovable property, which property shall be located in the United Kingdom (unless otherwise agreed to by the Preference Share Agent), acquired utilising the proceeds from the disposal of a Property owned by a Relevant Group Company, provided that the written approval of the Preference Share Agent shall be obtained prior to such Replacement Property being acquired if:
- 1.1.141.1 the WALE in respect of all the leases in respect of such Replacement Property is less than the shorter of (1) the WALE of the Property the disposal proceeds of which are used to acquire the Replacement Property, and (2) 5 (five) years; or
  - 1.1.141.2 the Preference Dividend Cover Ratio in respect of the immediately succeeding 2 (two) Measurement Dates, calculated on the proposed date of such acquisition on a pro forma basis as if the Replacement Property has been acquired, will be less than 3 (three) times;
- 1.1.142 **“Required Levels”** means the levels in respect of the Financial Covenants which the Issuer is required to maintain, as set out in clause 8.2;
- 1.1.143 **“Resident Beneficiary”** means any Beneficiary of an A Preference Share if that Beneficiary is a “resident” (of South Africa) as defined in the SA Tax Act;
- 1.1.144 **“Restricted Entity”** means the Issuer, Tradegro and each Relevant Group Company, and **“Restricted Entities”** means all or some of them, as the context requires;

- 1.1.145 **"Return"** means the overall:
- 1.1.145.1 financial return (net of charges, costs, imposts, levies, capital adequacy or liquidity requirements in respect of which an Adjustment Event as envisaged in any Rate Adjustment Clause may apply); and
  - 1.1.145.2 after-Tax return (net of all Taxes payable in respect of, or in connection with, the A Preference Shares),  
to be achieved by the relevant Holder in respect of the A Preference Shares (determined as at the Reference Date);
- 1.1.146 **"Reward"** means Reward Investments Limited, registration number 07385919, a limited liability company duly incorporated in accordance with the laws of England and Wales, and each of its Subsidiaries;
- 1.1.147 **"River Street"** means River Street Properties Ltd, registration number 05443252, a limited liability company duly incorporated in accordance with the laws of England and Wales;
- 1.1.148 **"RMB"** means FirstRand Bank Limited (acting through its Rand Merchant Bank Division), registration number 1929/001225/06, a public company duly incorporated in accordance with the laws of South Africa;
- 1.1.149 **"SA Companies Act"** means the South Africa Companies Act, No 71 of 2008, and those provisions of the South African Companies Act, No 61 of 1973 that have not been repealed;
- 1.1.150 **"SA Corporate"** means a Resident Beneficiary of an A Preference Share which is a company, and which is not subject to any special tax dispensation under the SA Tax Act, including, without limitation, any REIT, small business corporation, personal service provider, a gold mining company, a long term insurance company or a Tax holiday company;
- 1.1.151 **"SA Corporate Tax"** means the income tax levied on the taxable income of companies from time to time in terms of the SA Tax Act;
- 1.1.152 **"SA Corporate Tax Rate"** means the maximum SA Corporate Tax (expressed as a decimal) levied on SA Corporates from time to time in terms of the SA Tax Act;
- 1.1.153 **"SA Dividend Tax"** means the dividends tax imposed under Part VIII of Chapter II of the SA Tax Act;
- 1.1.154 **"SA Dividend Tax Rate"** means the rate at which the SA Dividend Tax is levied from time to time;
- 1.1.155 **"SA Tax"** refers to any Tax levied under the Applicable Laws of South Africa;
- 1.1.156 **"SA Tax Act"** means the South African Income Tax Act, No 58 of 1962;
- 1.1.157 **"Sanctioned Country"** means a country or territory which is subject to the Sanctions;
- 1.1.158 **"Sanctions"** means OFAC Sanctions or UK Sanctions, as applicable;
- 1.1.159 **"Sanctions List"** means the SDN List or UK Sanctions List, as applicable;
- 1.1.160 **"Scheduled A Dividend"** means, in respect of each A Preference Share and for each Dividend Period, the A Preference Dividend calculated in accordance with the formula contained in clause 5.3;
- 1.1.161 **"Scheduled A Redemption Date"** means the date 3 (three) years and 1 (one) day after the first day following the Actual Issue Date of the A Preference Share last issued, and the Preference Share Agent shall procure that the Issuer publishes such date on the Exchange Information Service as soon as practicable after such last Actual Issue Date;
- 1.1.162 **"Screen Rate"** means the mid market rate for deposits in Rand for the relevant period which appears on the Reuters Screen SAFETY Page alongside the caption **"YLD"** at the applicable time. If the agreed page is replaced or service ceases to be available, the Preference Share Agent may specify another page or service displaying the appropriate rate after consultation with the Issuer;

- 1.1.163 **“SDN List”** means the Specially Designated Nationals and Blocked Persons List, as published by the United States Department of the Treasury Office of Foreign Asset Control from time to time, and available on the world-wide internet at the following website – <http://www.treas.gov/offices/enforcement/ofac/sdn/index.html> or any official successor website, which identifies terrorist organisations, individual terrorists and states which sponsor terrorism that are, in each instance, restricted from doing business with the United States of America and/or American companies and/or Americans;
- 1.1.164 **“Security Interest”** means any mortgage bond, notarial bond, pledge, security cession, lien, charge, hypothecation, assignment, deposit by way of security or any other agreement or arrangement which has a similar effect (including set off and title retention);
- 1.1.165 **“SENS”** means the JSE’s service known as the “Stock Exchange News Service”;
- 1.1.166 **“Solvency and Liquidity Test”** shall have the meaning ascribed to “solvency and liquidity test” in the SA Companies Act;
- 1.1.167 **“South Africa”** means the Republic of South Africa;
- 1.1.168 **“STT”** means securities transfer tax, levied in terms of the South African Securities Transfer Tax Act, No 25 of 2007;
- 1.1.169 **“St Catherines (1)”** means St Catherines Perth (1) S.à r.l, a limited liability company (société à responsabilité limitée), with registration number B 171.952 and with a share capital of GBP12,500, duly incorporated in accordance with the laws of Luxembourg;
- 1.1.170 **“Subscriber”** means, in respect of each A Preference Share, the subscriber of such A Preference Share on the Actual Issue Date thereof;
- 1.1.171 **“Subscription Date”** means in respect of each A Preference Share the date upon which the Subscription Price in respect of that A Preference Share was paid to the Issuer;
- 1.1.172 **“Subscription Price”** means, in relation to each A Preference Share, an amount of ZAR10.00 (ten Rand), being the price obtained by the Issuer for the issue of that A Preference Share to its first Holder;
- 1.1.173 **“Subsidiary”** means a subsidiary, as defined in the SA Companies Act, and shall include any person who would, but for not being a company under the SA Companies Act, qualify as a subsidiary, as defined in the SA Companies Act;
- 1.1.174 **“Swiss Branch”** means the Swiss Finance Branch of Tradegro S.à r.l., with identification number CHE-109.980.352, and with its registered address at Bahnhofstrasse 30, 6300 Zug, Switzerland;
- 1.1.175 **“Tax”** means any tax, levy, impost, duty or other charge or withholding of a similar nature, levied in accordance with any law and includes any additional tax, penalties and/or interest levied on any such tax, levy, impost, duty or other charge or withholding;
- 1.1.176 **“Tax Adjustment Event”** means:
- 1.1.176.1 that, for any reason whatsoever, including as a result of:
- 1.1.176.1.1 the operation or application of any Applicable Laws relating to Tax (being those Applicable Laws which were applicable as at the Reference Date), the A Preference Dividends are or become subject to any SA Tax in the hands of all the Resident Beneficiaries who are SA Corporates; or
- 1.1.176.1.2 any amendment in the SA Tax Act (including the replacement of SA Tax Act with different legislation) or the introduction of any new Tax legislation which occurs after the Reference Date, the A Preference Dividends become subject to any SA Tax in the hands of all the Resident Beneficiaries who are SA Corporates;
- 1.1.176.2 a Resident Beneficiary becoming liable for any Tax as a result only of the Issuer or any of its Subsidiaries becoming or being a “controlled foreign company”, as defined in section 1 of the SA Tax Act, which decreases the Return to any such Resident Beneficiary in respect of the Outstanding A Preference Shares held by it;

- 1.1.176.3 the SA Corporate Tax Rate increases or decreases;
- 1.1.176.4 any amendment in any law of Malta (including the replacement of any such a law with different legislation) which occurs after the Reference Date, the A Preference Dividends become subject to Tax, imposed by any one of Malta in the hands of all the Resident Beneficiaries who are SA Corporates;
- and, for clarity, it is specifically recorded that no Tax Adjustment Event shall occur if:
- 1.1.176.5 any amendment envisaged in clause 1.1.176.1 or 1.1.176.4 occurs, but the effect of such amendment is to subject Resident Beneficiaries or any other Beneficiaries who are not SA Corporates subject to the applicable Tax; or
- 1.1.176.6 any A Preference Dividends become subject to SA Tax in the hands of a Resident Beneficiary who is a SA Corporate as a result of any act by that Resident Beneficiary who is a SA Corporate which renders the relevant A Preference Shares a "hybrid equity instrument" for purposes of section 8E of the SA Tax Act, or a "third-party backed share" for purposes of section 8EA of the SA Tax Act;
- 1.1.177 "**Titan Group**" means Titan Group Investments Proprietary Limited, registration number 1979/000777/07, a company incorporated in accordance with the laws of South Africa;
- 1.1.178 "**Titan Premier**" means Titan Premier Investments Proprietary Limited, registration number 1979/000776/07, a company incorporated in accordance with the laws of South Africa;
- 1.1.179 "**Tradegro**" means Tradegro S.à r.l., a limited liability company (société à responsabilité limitée), with registration number B 149.807, with a share capital of GBP94,927,327, duly incorporated in accordance with the laws of Luxembourg and acting, where applicable, through its duly authorised Swiss Branch;
- 1.1.180 "**Tradegro Board**" means the board of directors of Tradegro;
- 1.1.181 "**Tradegro Facility Agreement**" means the written loan facility agreement entered into on or about 8 October 2014 between the Issuer and Tradegro (acting through its Swiss Branch, where applicable) in terms whereof the Issuer makes a ZAR-denominated loan facility available to Tradegro (acting through its Swiss Branch, where applicable);
- 1.1.182 "**Tradegro Hedging Agreement**" means any master agreement, confirmation, schedule or other agreement entered into between Tradegro (acting through its Swiss Branch, where applicable) and a Hedge Counterparty for the purpose of hedging the currency risks relating to the amounts payable by Tradegro under the Tradegro Facility Agreement;
- 1.1.183 "**Tradegro Holdings**" means Tradegro Holdings Proprietary Limited, registration number 1921/006793/07, a company duly incorporated in accordance with the laws of South Africa;
- 1.1.184 "**Tradegro Loan**" means the ZAR-denominated, on-demand, interest-bearing term loan, repayable on 1 May 2018, advanced by the Issuer to Tradegro (acting through its Swiss Branch, where applicable) pursuant to the Tradegro Facility Agreement;
- 1.1.185 "**Trading Day**" means any day on which trading takes place on the JSE;
- 1.1.186 "**Treasury Transaction**" means any currency or interest purchase, cap or collar agreement, forward rate agreement, interest rate or currency future or option contract, foreign exchange or currency purchase or sale agreement, interest rate swap, currency swap or combined interest rate and currency swap agreement and any other similar agreement;
- 1.1.187 "**Trigger Event**" means any event listed in clause 12 of these A Preference Share Terms;
- 1.1.188 "**UK Acquisition and Refurbishment Requirement**" means the requirement that a minimum of 52% (fifty two percent) of the proceeds of the issue of all the A Preference Shares and loans advanced to the Issuer by RMB prior to the first Actual Issue Date must be utilised to acquire or refurbish Properties in the United Kingdom;
- 1.1.189 "**UK Sanctions**" means sanctions imposed from time to time by Her Majesty's Treasury in the United Kingdom of Britain and Northern Ireland and/or the Bank of England;

- 1.1.190 "**UK Sanctions List**" means any of the sanction lists of Her Majesty's Treasury in the United Kingdom of Britain and Northern Ireland, the Bank of England and/or the United Nations Security Council (each as amended, supplemented or substituted from time to time) and includes the consolidated list of financial sanctions targets published by the Bank of England;
- 1.1.191 "**United Kingdom**" means the United Kingdom of Britain and Northern Ireland;
- 1.1.192 "**Unspecified Shares**" means redeemable preference shares of no par value, having the rights, privileges, restrictions and conditions as determined by the Issuer Board upon issue thereof, but which are intended to rank in priority to the N Preference Shares and Ordinary Shares in respect of dividends and on a winding up;
- 1.1.193 "**Valuation**" means a valuation performed by an Approved Valuer;
- 1.1.194 "**Voluntary A Redemption Date**" has the meaning specified in clause 7.4.1;
- 1.1.195 "**WALE**" means weighted average lease expiry term;
- 1.1.196 "**Weighted Hedged Exchange Rate**" means, in respect of each Measurement Period, the amount weighted average Hedged Exchange Rate during that particular Measurement Period in accordance with the provisions of the Tradegro Hedging Agreement, determined in the event of a dispute between the Issuer and any Holder or if, at any time during the relevant Measurement Period no valid or enforceable Tradegro Hedging Agreement is in place, by the Preference Share Agent, acting as an expert, not as an arbitrator; and
- 1.1.197 "**ZAR**" or "**Rand**" or "**R**" means South African Rand (which is the lawful currency of the Republic of South Africa).
- 1.2 Unless inconsistent with the context or a contrary indication appears, any reference in these A Preference Share Terms to:
- 1.2.1 authority includes any court or any governmental, intergovernmental or supranational body, agency, department or any regulatory, self-regulatory or other authority;
- 1.2.2 repay (or any derivative form of that word) includes prepay (or any derivative form of that word);
- 1.2.3 a provision of law is a reference to that provision as amended or re-enacted from time to time;
- 1.2.4 a time of day shall be construed as a reference to Johannesburg time;
- 1.2.5 where any party is required to provide any consent, approval or to agree to the actions of any other party, the request for such consent, approval or agreement shall be made in writing and such consent, approval or agreement shall be in writing; and
- 1.2.6 where any party is required, entitled or obliged to provide a notice to any other party, such notice shall be in writing.
- 1.3 Clause headings are for reference purposes only.
- 1.4 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it appears only in a definitions clause, effect shall be given to it as if it were a substantive provision of these A Preference Share Terms.
- 1.5 Unless inconsistent with the context, an expression in these A Preference Share Terms which denotes:
- 1.5.1 any one gender includes the other genders;
- 1.5.2 a natural person includes an artificial or juristic person and vice versa; and
- 1.5.3 the singular includes the plural and vice versa.
- 1.6 Where figures are referred to in numerals and in words in these A Preference Share Terms, if there is any conflict between the two, the words shall prevail.

- 1.7 *Unless a contrary indication expressly appears, where any number of days is to be determined from or after a particular day, such number of days shall be determined so as to include that particular day and to exclude the last day of such period; provided that if such last day falls on a day which is not a Business Day, such last day shall be the next succeeding Business Day.*
- 1.8 *If the due date for performance of any obligation in terms of these A Preference Share Terms is a day which is not a Business Day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately succeeding Business Day.*
- 1.9 *Where any term is defined within the context of any particular clause in these A Preference Share Terms, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the same meaning as ascribed to it for all purposes in terms of these A Preference Share Terms, notwithstanding that that term has not been defined in clause 1.*
- 1.10 *The use of any expression in these A Preference Share Terms covering a process available under South African law such as winding-up, business rescue, judicial management, administration and liquidation (without limitation eiusdem generis) shall be construed as including any equivalent or analogous proceedings under the law of any other applicable jurisdiction.*
- 1.11 *Any reference in these A Preference Share Terms to any agreement or document shall be construed as a reference to such agreement or document, as amended, varied, novated or supplemented from time to time.*

## **2. APPLICABILITY**

- 2.1 *These A Preference Share Terms shall apply to each A Preference Share which the Issuer issues as part of the Preference Share Programme, whether that Preference Share is issued as part of the initial issue under the Preference Share Programme or as part of any subsequent issue under that programme.*
- 2.2 *No issue of any shares of any class in the Issuer's share capital after the Actual Issue Date on which the Issuer issues any A Preference Share under the Preference Share Programme, shall in any manner detract from or vary the rights which attach to the A Preference Shares.*
- 2.3 *Nothing in these A Preference Share Terms shall confer on any Holder the right to participate in all or part of the benefits attaching to any share or any interest of a similar nature in any Group Company, other than the Issuer.*

## **3. PREFERENCE SHARE AGENT**

### ***Appointment***

- 3.1 *Each Holder authorises the Preference Share Agent to exercise the rights, powers, authorities and discretions specifically given to the Preference Share Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.*
- 3.2 *The Preference Share Agent will represent the Holders in connection with the following matters (the "Agency Matters"):*
  - 3.2.1 *the payment of any amounts (whether in respect of the A Preference Dividends or otherwise) which the Issuer has agreed to pay to any Holder under the Finance Documents (or any of them);*
  - 3.2.2 *the granting or withholding of any consent or approval which the Issuer requires from the Holders under the Finance Documents (or any of them);*
  - 3.2.3 *the receipt of any financial statements and/or other documents or information which, in terms of the Finance Documents (or any of them), the Issuer becomes obliged to supply the Holders;*

- 3.2.4 *the receipt of any notices which, in terms of the Finance Documents (or any of them), the Issuer wishes to deliver to the Holders;*
- 3.2.5 *the giving of any notices which, in terms of the Finance Documents (or any of them), the Holders wish to deliver to the Issuer; and*
- 3.2.6 *the Enforcement of their rights under the Finance Documents (or any of them).*

**Duties of the Preference Share Agent**

- 3.3 *The Preference Share Agent shall forward to a Holder the original or a copy of any document which is delivered to the Preference Share Agent for that Holder by any the Issuer as soon as reasonably practicable after having received that original or copy document, as the case may be.*
- 3.4 *Except where a Finance Document specifically provides otherwise, the Preference Share Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to a Holder.*
- 3.5 *If the Preference Share Agent receives notice from the Issuer referring to these A Preference Share Terms, describing a Trigger Event or Potential Trigger Event, and stating that the circumstance described is a Trigger Event or Potential Trigger Event, it shall promptly notify each Holder.*
- 3.6 *If the Preference Share Agent is, in its capacity as Preference Share Agent, aware of the non-payment of any redemption amount, dividend, or any fee payable to a Holder under these A Preference Share Terms it shall promptly notify the Holders.*
- 3.7 *The duties of the Preference Share Agent under the Finance Documents are solely mechanical and administrative in nature.*

**No Fiduciary Duties**

- 3.8 *Nothing in these A Preference Share Terms constitutes the Preference Share Agent as a trustee or fiduciary of any other person.*
- 3.9 *The Preference Share Agent shall not be bound to account to any Holder for any sum or the profit element of any sum received by them for their own account.*

**Dealings**

- 3.10 *The Issuer shall deal with the Preference Share Agent in connection with all the Agency Matters and the Issuer shall not deal, in respect of any Agency Matter whatsoever, with any Holder (except if such Holder has been appointed as the Preference Share Agent). Notwithstanding the provisions of this clause 3.10 the Issuer shall, however, be entitled to deal directly with any Holder if, for any reason whatsoever, the Preference Share Agent is not available to deal with the applicable matter.*
- 3.11 *The Issuer shall be entitled to assume that the Preference Share Agent has authority to represent the Holders in connection with the Agency Matters and in particular, but without limitation, the Issuer shall be entitled to assume that the Preference Share Agent has been authorised by each Holder to receive, on behalf of that Holder, any amount which becomes payable to the relevant Holder by the Issuer under the Finance Documents.*
- 3.12 *If the Holders replace any person who has been appointed as the Preference Share Agent with a different person:*
  - 3.12.1 *the Holders shall give written notice of such appointment to the Issuer and the aforesaid notice shall be signed by each Holder; and*
  - 3.12.2 *until such written notice has been delivered, the Issuer shall be entitled to continue dealing with the person who was the Preference Share Agent prior to such new appointment.*
- 3.13 *Any reference in these A Preference Share Terms to anything done or to be done by the Preference Share Agent (including the receipt by the Preference Share Agent of any payment, the exercise of any discretion by the Preference Share Agent and/or the giving or withholding of any consent by the*



Preference Share Agent) is a reference to the Preference Share Agent acting as the duly authorised agent of the Holders.

- 3.14 Nothing in these A Preference Share Terms shall preclude the Holders from enforcing any of their rights under the Finance Documents in their own names to the extent that such action is permitted in any Finance Document.

### **Business**

- 3.15 The Preference Share Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Issuer.

### **Rights and Discretions of the Preference Share Agent**

- 3.16 The Preference Share Agent may rely on:

3.16.1 any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and

3.16.2 any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

- 3.17 The Preference Share Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Holders) that:

3.17.1 no Trigger Event has occurred (unless it has actual knowledge of a Trigger Event arising); and

3.17.2 any right, power, authority or discretion vested in any person has not been exercised.

- 3.18 The Preference Share Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.

- 3.19 The Preference Share Agent may act in relation to the Finance Documents through its personnel and agents.

- 3.20 The Preference Share Agent may disclose to any Holder any information it reasonably believes it has received as agent under these A Preference Share Terms.

- 3.21 Notwithstanding any other provision of any Finance Document to the contrary, the Preference Share Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

### **Holdings' Instructions**

- 3.22 Unless a contrary indication appears in a Finance Document, the Preference Share Agent shall:

3.22.1 exercise any right, power, authority or discretion vested in it as Preference Share Agent in accordance with any instructions given to it by the Majority Holders (or, if so instructed by the Majority Holders, refrain from exercising any right, power, authority or discretion vested in it as Preference Share Agent); and

3.22.2 not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Holders.

- 3.23 Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Holders will be binding on all the Holders.

- 3.24 The Preference Share Agent may refrain from acting in accordance with the instructions of the Majority Holders until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.

- 3.25 In the absence of instructions from the Majority Holders, the Preference Share Agent may act (or refrain from taking action) as it considers to be in the best interest of the Holders.

3.26 *The Preference Share Agent is not authorised to act on behalf of a Holder (without first obtaining that Holder's consent) in any legal or arbitration proceedings relating to any Finance Document, provided that this clause 3.26 shall not apply to any proceedings relating to the perfection, preservation or protection of rights under, or enforcement of, the Finance Documents.*

#### **Responsibility for Documentation**

3.27 *The Preference Share Agent:*

3.27.1 *is not responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Preference Share Agent, the Issuer or any other person given in or in connection with any Finance Document;*

3.27.2 *is not responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document; or*

3.27.3 *is not responsible for any determination as to whether any information provided or to be provided to any Holder is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.*

#### **Exclusion of Liability**

3.28 *Without limiting clause 3.29, the Preference Share Agent will not be liable (including for negligence or any other category of liability whatsoever) for any action taken by it under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct.*

3.29 *No Holder may take any proceedings against any officer, employee or agent of the Preference Share Agent in respect of any claim it might have against the Preference Share Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Preference Share Agent may rely on this clause.*

3.30 *The Preference Share Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Preference Share Agent if the Preference Share Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Preference Share Agent for that purpose.*

3.31 *Nothing in these A Preference Share Terms shall oblige the Preference Share Agent to carry out any "know your customer" or other checks in relation to any person on behalf of any Holder, and each Holder confirms to the Preference Share Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Preference Share Agent.*

#### **Holders' indemnity to the Preference Share Agent**

3.32 *Each Holder shall (in proportion to holding of Outstanding A Preference Shares) indemnify the Preference Share Agent, within 3 (three) Business Days of demand, against, and pay to the Preference Share Agent, any cost, loss or liability incurred by the Preference Share Agent (otherwise than by reason of the Preference Share Agent's gross negligence or wilful misconduct) in acting as the Preference Share Agent under the Finance Documents (unless the Preference Share Agent has been reimbursed by the Issuer pursuant to a Finance Document).*

#### **Issuer Indemnities**

3.33 *The Issuer shall not have any claim of any nature whatsoever against the Preference Share Agent for the recovery of any losses and/or damages which it may suffer as a result of anything which the Preference Share Agent does, or omits to do, in performing its functions as the Preference Share Agent, other than as a direct result of the wilful default or gross negligence of the Preference Share Agent.*

3.34 *The Issuer hereby indemnifies the Preference Share Agent and holds the Preference Share Agent harmless against any claims which may be made against it by any third person whatsoever, arising*

out of anything done, or omitted to be done, by the Preference Share Agent in relation to the Agency Matters, other than as a direct result of the wilful default or gross negligence of the Preference Share Agent.

3.35 The Issuer shall promptly indemnify and pay to the Preference Share Agent any properly evidenced third party cost, loss or liability incurred by the Preference Share Agent as a result of:

3.35.1 acting in its capacity as Preference Share Agent or performing its functions as such in terms of the Finance Documents;

3.35.2 investigating or taking any action in connection with any event which it reasonably believes is a Potential Trigger Event or a Trigger Event;

3.35.3 acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised,

other than (i) the Preference Share Agent's own internal costs and/or (ii) any such costs, loss or liability incurred as a result of the wilful default or gross negligence of the Preference Share Agent.

### **Resignation of the Preference Share Agent**

3.36 The Preference Share Agent may resign and appoint one of its affiliates acting through an office in South Africa as successor by giving notice to the Holders and the Issuer.

3.37 Alternatively, the Preference Share Agent may resign by giving 30 (thirty) days' notice to the Holders and the Issuer, in which case the Majority Holders (after consultation with the Issuer) may appoint a successor to such Preference Share Agent.

3.38 If the Majority Holders have not appointed a successor Preference Share Agent in accordance with clause 3.37 within 20 (twenty) days after notice of resignation was given, the retiring Preference Share Agent (after consultation with the Issuer) may appoint a successor Preference Share Agent (acting through an office in South Africa).

3.39 The retiring Preference Share Agent shall, at its own cost, make available to the successor Preference Share Agent such documents and records and provide such assistance as the successor Preference Share Agent may reasonably request for the purposes of performing its functions as a Preference Share Agent under the Finance Documents.

3.40 The Preference Share Agent's resignation notice shall only take effect upon the appointment of a successor.

3.41 Upon the appointment of a successor, the retiring Preference Share Agent shall be discharged from any further obligation in respect of the Finance Documents. Any successor and each of the Holders and the Issuer shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original party.

3.42 After consultation with the Issuer, the Majority Holders may, by notice to the Preference Share Agent require it to resign in accordance with clause 3.37. In this event, the Preference Share Agent shall resign in accordance with paragraph 3.37.

### **Confidentiality**

3.43 In acting as agent for the Holders, the Preference Share Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

3.44 If information is received by another division or department of the Preference Share Agent, it may be treated as confidential to that division or department and the Preference Share Agent shall not be deemed to have notice of it.

### **Relationship with the Holders**

- 3.45 The Preference Share Agent may treat the person shown in its records as Holder at the opening of business (in the place of the Preference Share Agent's principal office as notified to the Holder from time to time) as the Holder:
- 3.45.1 entitled to or liable for any payment due under any Finance Document on that day; and
  - 3.45.2 entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,
  - 3.45.3 unless it has received not less than 5 (five) Business Days' prior notice from that Holder to the contrary in accordance with the terms of these A Preference Share Terms.
- 3.46 Any Holder may by notice to the Preference Share Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Holder under the Finance Documents. Such notice shall contain the address, fax number and email address.

## **4. SOLVENCY AND LIQUIDITY**

- 4.1 The Issuer shall on the date on which any payment of A Preference Dividends, Capital Distributions or the A Redemption Final Payments is made by it to the Holders, deliver to the Preference Share Agent, certified copies of all resolutions of the Issuer Board or of the Shareholders of the Issuer, as the case may be, which have been passed in order to lawfully effect payment of such A Preference Dividends, Capital Distributions or A Redemption Final Payments to each such Holder in respect of the A Preference Shares held by such Holder, including all resolutions so required in terms of the provisions of section 46 of the SA Companies Act. The Issuer shall procure that subject to the provisions of the SA Companies Act, each such resolution is passed by the Issuer Board or such shareholders, as the case may be, in sufficient time to allow the payment of such A Preference Dividends, Capital Distributions or A Redemption Final Payments on the dates on which same are required to be so paid under these A Preference Share Terms.
- 4.2 Without limiting the generality of clause 4.1, on or before the payment by the Issuer of any A Preference Dividend, Capital Distribution or A Redemption Final Payments on any of the A Preference Shares, the Issuer shall apply the Solvency and Liquidity Test and, once the directors of the Issuer are reasonably satisfied that the Issuer will satisfy such Solvency and Liquidity Test immediately after paying the relevant A Preference Dividend, Capital Distribution or A Redemption Final Payments, the directors of the Issuer shall pass a resolution acknowledging that they have applied the Solvency and Liquidity Test, and have reasonably concluded that the Issuer will satisfy the Solvency and Liquidity Test immediately after paying the relevant A Preference Dividend, Capital Distribution or A Redemption Final Payments.

## **5. DIVIDENDS**

### **Entitlement**

- 5.1 Each Holder shall be entitled, in respect of each A Preference Share held by it to the A Preference Dividends calculated in accordance with the provisions of this clause 5.
- 5.2 The A Preference Dividends shall rank prior to the dividend rights of any other classes of shares in the Issuer's share capital (including the Ordinary Shares).

### **Scheduled A Dividends**

- 5.3 For each Dividend Period and subject to clauses 5.4 of these A Preference Share Terms, each A Preference Share shall be entitled to a Scheduled A Dividend in an amount equal to the amount calculated on a Dividend Payment Date in accordance with the following formula:

$$a = (b + c) \times d \times e$$

in which formula:

a = the amount for that Dividend Payment Date;

b = the Subscription Price of that A Preference Share less any Capital Distribution in respect of that A Preference Share;

- c = the Accumulated A Dividends in respect of that A Preference Share at 17:00, Johannesburg time, on the Business Day immediately preceding the applicable Dividend Payment Date;*
- d = if a Trigger Event (i) has not occurred, the Dividend Rate divided by 365 (three hundred and sixty five), or (ii) has occurred, the Default Dividend Rate divided by 365 (three hundred and sixty five); and*
- e = the number of days during the applicable Dividend Period.*

5.4 *If (i) the Scheduled A Dividend for a Dividend Period is calculated in accordance with the formula contained in clause 5.3 of these A Preference Share Terms for any Dividend Period, and (ii) at the time of that calculation no Trigger Event has occurred, but (iii) a Trigger Event occurs after such calculation, the Scheduled A Dividend for the applicable Dividend Period shall be recalculated at the Default Rate with effect from the date upon which the Trigger Event occurred.*

5.5 *The Issuer shall (i) prior to each Dividend Payment Date, ensure that the Issuer Board considers the requirements of section 46 of the SA Companies Act, and (ii) if the Issuer Board by resolution confirms that it is satisfied that the Issuer will comply with the requirements of section 46 of the SA Companies Act, declare and pay A Preference Dividends equal to the aggregate of (i) the Scheduled A Dividend for the Dividend Period which ends on that Dividend Payment Date, and (ii) the Accumulated A Dividends as at that Dividend Payment Date.*

**Refinance A Preference Dividend**

5.6 *Subject to clause 5.7, if, pursuant to clause 7.3, the Issuer elects to voluntarily redeem the A Preference Shares with the proceeds of any Refinancing, such A Preference Shares shall have associated with them the right of the Holder registered as such on the date on which such A Preference Share is redeemed, to receive and be paid the Refinance A Preference Dividend, on the A Redemption Date (the "**Refinance A Dividend Date**") of such A Preference Share.*

5.7 *The Issuer shall not be required to pay a Refinance A Preference Dividend on the redemption if the Issuer Refinances the A Preference Shares:*

5.7.1 *in the circumstances contemplated in clause 5.9.1; or*

5.7.2 *as a result of the occurrence of a Regulatory Event and, as a result of such occurrence, the raising of funding by the Issuer by means of the issue of the A Preference Shares becomes more expensive for the Issuer or any of its shareholders by more than 25 (twenty five) basis points; or*

5.7.3 *in any instances where the approval is sought from the Majority Holders by the Issuer in accordance with the circumstances contemplated in clause 1.1.113.3 and such approval is not given.*

**Adjustment Events**

5.8 *If an Adjustment Event occurs the Preference Share Agent shall:*

5.8.1 *determine whether, as a result of such occurrence (i) Additional A Dividends must be paid by the Issuer in respect of the Outstanding A Preference Shares, or (ii) the Applicable Rates must be adjusted;*

5.8.2 *calculate the amount of the Additional A Dividends or the adjusted Applicable Rates (as the case may be); and*

5.8.3 *notify (the "**Gross-up Notice**") the Issuer in writing of the amount of the Additional A Dividends and/or the adjusted Applicable Rates, and the identity of and number of Outstanding A Preference Shares held by the Holders affected by the Gross-up Notice.*

5.9 *In circumstances where the Issuer receives a Gross-up Notice:*

5.9.1 *the Issuer shall be entitled to redeem:*

5.9.1.1 *the A Preference Shares held by each Beneficiary (each an "**Affected Beneficiary**") requiring any Additional A Dividends or an adjustment to the Applicable Rates, provided that all the Affected Beneficiaries hold, in aggregate, less than 1/3 (one third) of the Outstanding A Preference Shares; or*

- 5.9.1.2 all the A Preference Shares held by each Affected Beneficiaries which requires Additional A Dividends or an adjustment to the Applicable Rates by more than 25 (twenty five) basis points,
- failing which, the Issuer shall pay the Additional A Dividends or adjust the Applicable Rates;
- 5.9.2 the Issuer shall within 5 (five) Business Days of receipt of a Gross-up Notice, notify (the "**Redemption Notice**") the Affected Beneficiary should it elect to voluntarily redeem the A Preference Shares of the Affected Beneficiary;
- 5.9.3 a Redemption Notice shall be revocable at the instance of the Issuer and shall not oblige the Issuer to redeem any Outstanding A Preference Share whether on the Voluntary A Redemption Date set out in that Redemption Notice or on any other date;
- 5.9.4 the Affected Beneficiary shall within 15 (fifteen) Business Days present its A Preference Shares for redemption by the Issuer by written notice to that effect;
- 5.9.5 if, pending redemption by the Issuer of the Affected Beneficiary's A Preference Shares, the Affected Beneficiary transfers some or all of its A Preference Shares or fails to present the A Preference Shares in accordance with clause 5.9.3, the Gross-up Notice and the Redemption Notice, shall in respect of the A Preference Shares so transferred or not so presented, lapse and be of no force and effect, and the Issuer shall not be obliged (1) to pay the Additional A Dividends or adjust the Applicable Rates (as the case may be), or (2) to redeem the A Preference Shares so transferred or not presented; and
- 5.9.6 the Issuer shall, subject to clause 5.9.5, against presentation of the A Preference Shares by the Affected Beneficiary redeem the A Preference Shares of the Affected Beneficiary.
- 5.10 The Preference Agent shall procure that the Issuer publishes an announcement (an "**Adjustment Notice**") on SENS which sets out (i) the details of the Adjustment Event which has occurred, and (ii) whether, as a result of such occurrence, it will pay Additional A Dividends or whether (subject to the A Preference Shares not having being redeemed in accordance with clause 5.9) the Applicable Rates will be adjusted, and (iii) the amount of the Additional A Dividends or the adjusted Applicable Rates (as the case may be).
- 5.11 If the Issuer becomes obliged to pay Additional A Dividends as a result of the occurrence of any Adjustment Event, the Additional A Dividends shall be calculated from the date on which the Adjustment Event occurred and the Issuer shall pay those dividends on the earlier of (i) the next Dividend Payment Date, (ii) the day 30 (thirty) days after the date on which the applicable Adjustment Event occurs or (iii) the date of redemption of the A Preference Shares in accordance with clause 5.9.1.
- 5.12 If the Applicable Rates must be adjusted as a result of the occurrence of an Adjustment Event that adjustment shall take effect on the first day of the Dividend Period commencing after the Dividend Period in which the Adjustment Event occurred, unless the Issuer has redeemed the A Preference Shares.
- 5.13 The Issuer shall, as soon as it becomes aware of any requirement to effect an adjustment as contemplated in clause 5.8, effect such adjustment in accordance with clause 5.8. Any Holder or the Preference Share Agent may, if it believes that the Issuer should effect an adjustment as contemplated in clause 5.8, deliver written notice to the Issuer to such effect, and in such notice set out the information necessary to enable the Issuer to effect the adjustment.

#### **Tax Adjustment Events**

- 5.14 If a Tax Adjustment Event envisaged in clause 1.1.176.1 or 1.1.176.4 occurs in relation to any A Preference Dividend which the Issuer has already paid in respect of any Outstanding A Preference Share, the Issuer shall pay, in respect of each Outstanding A Preference Share, an Additional A Dividend calculated in accordance with the following formula:

$$a = [b \div (1 - c)] - b$$

in which formula:

a = the Additional A Dividend per A Preference Share;

b = the amount of the Scheduled A Dividends (in respect of one A Preference Share) which has become subject to the applicable Tax; and

$c =$  the rate at which the applicable Scheduled A Dividend has become subject to Tax (whether in South Africa or Malta) in the hands of the Resident Beneficiaries who are SA Corporates.

5.15 If (i) a Tax Adjustment Event envisaged in clause 1.1.176.1 or 1.1.176.4 occurs, and (ii) as a result of such occurrence any A Preference Dividends which have not yet been paid will become subject to Tax, each Applicable Rate shall each be increased in accordance with the following formula:

$$a = b \div (1 - c)$$

in which formula:

$a =$  the increased Applicable Rate;

$b =$  the Applicable Rate, prior to its adjustment in accordance with this clause 5.15; and

$c =$  the rate at which the applicable Scheduled A Dividend has become subject to Tax (whether in South Africa, or Malta) in the hands of those of those the Resident Beneficiaries which are SA Corporates.

If (i) the Applicable Rates are increased in accordance with this clause 5.15, and after such increase the rate (the "**Adjustment Rate**") envisaged in the definition of "b" above increases or decreases, the Applicable Rate shall, with effect from the date on which the Adjustment Rate increases or decreases, be the rate calculated in accordance with the formula contained in this clause 5.15 on the basis that (i) the value of "a" in that formula shall be the Applicable Rates immediately prior to the occurrence of the Tax Adjustment Event, and (ii) the value of "c" in that formula shall be the increased or decreased Adjustment Rate.

5.16 If a Tax Adjustment Event envisaged in clause 1.1.176.3 occurs, the Dividend Rate will be recalculated in accordance with the following formula and will be adjusted accordingly:

$$a = b \times (1 - c) / (1 - d)$$

in which formula:

$a =$  the new Dividend Rate to be determined, expressed as a percentage;

$b =$  the Dividend Rate applicable immediately prior to the occurrence of such Tax Adjustment Event, expressed as a percentage;

$c =$  the new SA Corporate Tax Rate applicable pursuant to such Tax Adjustment Event, expressed as a percentage;

$d =$  the SA Corporate Tax Rate applicable immediately prior to the occurrence of such Tax Adjustment Event, expressed as a percentage.

The new Dividend Rate calculated in accordance with this clause 5.16 shall be applied retrospectively in re-calculating any A Preference Dividends which have accrued, but which have not yet been paid at that time.

5.17 If a Tax Adjustment Event envisaged in clause 1.1.176.2 occurs, the Issuer shall declare and pay Additional A Dividends in respect of all the Outstanding A Preference Shares (i.e. those held by all Holders and not only the affected Holder) as may be necessary to compensate for the reduction in Return and to ensure that all the affected Resident Beneficiaries will receive at least the same Return, as if the relevant Tax Adjustment Event had not occurred.

#### **Increased Costs Event**

5.18 If an Increased Costs Event occurs, the Issuer shall (i) declare and pay Additional A Dividends in respect of all the Outstanding A Preference Shares (i.e. those held by all Holders and not only the affected Holder), or (ii) adjust the Applicable Rates in respect of all the Outstanding A Preference Shares, as may be necessary to compensate for the reduction in Return and to ensure that all the affected Resident Beneficiaries will receive at least the same Return, as if the relevant Increased Costs Event had not occurred.

### **Declaration and Payment**

- 5.19 The Issuer shall pay:
- 5.19.1 the Scheduled A Dividend for each Dividend Period on the first Dividend Payment Date which occurs after that Dividend Period;
  - 5.19.2 any Additional A Dividends which it becomes obliged to pay, by the later of (i) the next Dividend Payment Date, or (ii) the date 30 (thirty) days after the date on which the applicable Adjustment Event occurs; and
  - 5.19.3 any Accumulated A Dividends which remain as at the Actual A Redemption Date on which it redeems any A Preference Share, on that Actual A Redemption Date.

### **Ordinary Shares**

- 5.20 The Issuer shall not make any Distributions in respect of its Ordinary Shares except if:
- 5.20.1 it has paid, in full, the Accumulated A Dividends (if any) up to the last day of the last Dividend Period which occurs prior to the date on which the Issuer makes that Distribution; and
  - 5.20.2 the Issuer complies with all the Financial Covenants immediately prior to completion of the proposed Distribution, and will continue to comply with all the Financial Covenants immediately after completion of the proposed Distribution.

### **Post-Redemption Payment**

- 5.21 If the effect of an Adjustment Event only becomes apparent or the Holders only become aware of the effects of such Adjustment Event after all of the A Preference Shares have been redeemed, the Issuer shall and hereby does indemnify and hold the Holders harmless against the effect of such Adjustment Event and, accordingly, shall pay to the Holders, on demand, such amount as may be required to place the Holders in the same after-Tax position as they would have been in had the Adjustment Event not occurred. The provisions of this clause 5.21 shall survive the redemption of the A Preference Shares and shall remain enforceable against the Issuer by the Holders until the Final Discharge Date.

## **6. DETERMINATION AND CHANGES TO THE CALCULATION OF JIBAR**

### **Absence of Quotations**

- 6.1 Subject to clause 6.2, if JIBAR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by 11:00 on the Quotation Date, JIBAR shall be determined on the basis of the quotations of the remaining Reference Banks.

### **Market Disruption**

- 6.2 If a Market Disruption Event contemplated in clause 6.4.2 occurs in relation to any Dividend Period in relation to a specific Beneficiary, then JIBAR (in respect of all the Holders) shall be determined by the Preference Share Agent as the weighted average percentage rate per annum determined by the Preference Share Agent based on any rate provided by any Reference Bank to the other Beneficiaries in respect of a period similar to the Dividend Period.
- 6.3 If a Market Disruption Event contemplated in clause 6.4.1 occurs in relation to any Dividend Period, then the Preference Share Agent shall determine JIBAR based on the weighted average of each rate notified to the Preference Share Agent by each Holder as soon as practicable and in any event before dividends are due to be paid in respect of that Dividend Period, to be that which expresses as a percentage rate per annum the cost to each Beneficiary of funding their holdings of the Preference Shares from whatever source(s) that Beneficiary may reasonably select.
- 6.4 In these A Preference Share Terms "**Market Disruption Event**" means:
- 6.4.1 at or about noon on the Quotation Date for the relevant Dividend Period the Screen Rate is not available and none of the Reference Banks supplies a rate to the Issuer to determine JIBAR for the relevant Dividend Period; or



6.4.2 before close of business in Johannesburg on the Quotation Date, the cost to a Beneficiary of holding its A Preference Shares from whatever source(s) it may reasonably select would be in excess of JIBAR.

#### **Alternative Basis of JIBAR**

- 6.5 Without prejudice to the generality of clauses 6.2 and 6.3, if a Market Disruption Event occurs and the Issuer or all the Holders so require, the Issuer and Preference Share Agent (representing all the Holders) shall enter into negotiations (for a period of not more than 30 (thirty) days) with a view to agreeing a substitute basis for determining JIBAR.
- 6.6 Any alternative basis agreed pursuant to clause 6.5 shall, with the prior consent of all the Holders and the Issuer, be binding on all the Issuer and all Holders.

### **7. REDEMPTION**

#### **Scheduled Redemption**

- 7.1 The Issuer shall, on the Scheduled A Redemption Date, be obliged to redeem (to the extent that same have not already been redeemed) all the A Preference Shares.

#### **Compulsory Redemption – Trigger Events**

- 7.2 If a Trigger Event occurs:
- 7.2.1 the Preference Share Agent shall be entitled (but not obliged) to deliver written notice (a “**Cure Notice**”) to the Issuer in which the Preference Share Agent requires the Issuer to remedy that Trigger Event; and
- 7.2.2 if a Cure Notice is delivered and the Issuer does not remedy the applicable Trigger Event by 17:00, Johannesburg time, on the 1st (first) Business Day after receipt of the Cure Notice by it, the Issuer shall redeem all the Outstanding A Preference Shares on the next Business Day.

#### **Voluntary Redemption**

- 7.3 The Issuer shall be entitled to redeem all (and not only some of) the Outstanding A Preference Shares voluntarily at any time, unless the voluntary redemption is pursuant to the provisions of clause 5.9.

#### **Procedure – Voluntary Redemption**

- 7.4 If the Issuer wishes to redeem the Outstanding A Preference Shares voluntarily:
- 7.4.1 the Issuer shall publish, on SENS, an announcement (a “**Redemption Announcement**”) which sets out (i) the grounds on which the Issuer believes that it has become entitled to redeem the Outstanding A Preference Shares, and (ii) the date (the “**Voluntary A Redemption Date**”) on which the Issuer will redeem the Outstanding A Preference Shares, the Voluntary A Redemption Date to be a Dividend Payment Date which occurs at least 10 (ten) Business Days after the publication of the Issuer’s Redemption Announcement;
- 7.4.2 the publication of a Redemption Announcement shall be revocable at the instance of the Issuer and shall not oblige the Issuer to redeem any Outstanding A Preference Share whether on the Voluntary A Redemption Date set out in that Redemption Announcement or on any other date; and
- 7.4.3 if the Issuer publishes a Redemption Announcement and thereafter elects not to redeem the Outstanding A Preference Shares the Issuer shall (i) make an announcement to such effect on SENS by the Voluntary A Redemption Date set out in the Redemption Announcement, and (ii) not thereafter be entitled to redeem the Outstanding A Preference Shares voluntarily without again publishing a Redemption Announcement.

#### **Capital Distributions**

- 7.5 The Issuer shall, at any time, be entitled (but not obliged), to make Capital Distributions in respect of all (and not only some) of the Outstanding A Preference Shares from internally generated cash flows of the Issuer (which shall in particular, but without limitation, exclude any proceeds from any Refinance), provided that:

- 7.5.1 no Trigger Event or Potential Trigger Event is Continuing at the time, and no Trigger Event or Potential Trigger Event would arise as a result, of the making of the proposed Capital Distribution;
- 7.5.2 the Capital Distribution shall be made pro rata to each Outstanding A Preference Share;
- 7.5.3 no more than 1 (one) Capital Distribution during any consecutive 6 (six) month period shall be permitted; and
- 7.5.4 the Capital Distribution shall be not less than R1,00 (one rand) per Outstanding A Preference Shares.

#### **Procedure – Capital Distribution**

- 7.6 If the Issuer wishes to make a Capital Distribution:
  - 7.6.1 the Issuer shall publish, on SENS, an announcement (a “**Capital Distribution Announcement**”) which sets out (i) the amount of the Capital Distribution per Outstanding A Preference Shares, and (ii) the date (the “**Capital Distribution Date**”) on which the Issuer will make the Capital Distribution, the Capital Distribution Date to be a Dividend Payment Date which occurs at least 10 (ten) Business Days after the publication of the Issuer’s Capital Distribution Announcement;
  - 7.6.2 the publication of a Capital Distribution Announcement shall be revocable at the instance of the Issuer and shall not oblige the Issuer to make the Capital Distribution whether on the Capital Distribution Date set out in that Capital Distribution Announcement or on any other date; and
  - 7.6.3 if the Issuer publishes a Capital Distribution Announcement and thereafter elects not to make the Capital Distribution the Issuer shall (i) make an announcement to such effect on SENS by the Capital Distribution Date set out in the Capital Distribution Announcement, and (ii) not thereafter be entitled to make the Capital Distribution without again publishing a Capital Distribution Announcement.
- 7.7 If the Issuer wishes to make a Capital Distribution in accordance with clause 7.5, the Issuer shall (i) prior to the Capital Distribution Date, ensure that the Issuer Board considers the requirements of section 46 of the SA Companies Act, and (ii) if the Issuer Board by resolution confirms that it is satisfied that the Issuer will comply with the requirements of section 46 of the SA Companies Act, make and complete the Capital Distribution.

#### **A Redemption Final Payments**

- 7.8 If the Issuer elects to redeem the Outstanding A Preference Shares voluntarily the Issuer shall, on the applicable Voluntary A Redemption Date, pay:
  - 7.8.1 firstly, any Accumulated A Dividends in respect of that A Preference Share on its Actual A Redemption Date
  - 7.8.2 thereafter, the Scheduled A Dividend for the Dividend Period which ends on the Actual A Redemption Date of that A Preference Share; and
  - 7.8.3 thereafter, the Subscription Price less any Capital Distributions in respect of that A Preference Share.

### **8. FINANCIAL COVENANTS**

#### **Measurement**

- 8.1 The Issuer shall, within 75 (seventy five) days of each Measurement Date, deliver to the Preference Share Agent a Compliance Certificate which sets out compliance by the Issuer with the applicable Required Levels as at the Measurement Date to which such Compliance Certificate relates. The functional currency of the Group is GBP, and, accordingly, all Financial Covenants will be measured on a GBP basis and where an amount is denominated in ZAR, such amount shall be converted to GBP at the Weighted Hedged Exchange Rate.

## 8.2 Required Levels

- 8.2.1 *The Issuer shall ensure that:*
- 8.2.2 *the Debt to Equity Ratio on each Measurement Date does not exceed 60:40 (sixty to forty);*
- 8.2.3 *the Loan to Value Ratio on each Measurement Date does not exceed 60% (sixty percent);*
- 8.2.4 *the Interest Cover Ratio on each Measurement Date does not fall below 2.25 (two point two five) times;*
- 8.2.5 *the Preference Share to Value Ratio on each Measurement Date does not exceed 55% (fifty five percent); and*
- 8.2.6 *the Preference Dividend Cover Ratio on each Measurement Date does not fall below 2.75 (two point seven five) times.*

### **Equity Cure**

## 8.3 Should:

- 8.3.1 *it be anticipated by the Issuer that any Financial Covenant will be breached in respect of any Measurement Period; or*
- 8.3.2 *any Financial Covenant is breached in respect of any Measurement Period as reflected in the Compliance Certificate,*

*the Issuer may in each instance, should it wish to avoid the occurrence of a Potential Trigger Event, or remedy a Potential Trigger Event, of the nature contemplated in clause 12.9 which has occurred, (i) restore such Financial Covenant to the Required Levels in terms of clause 8.2 by utilising Equity Cure Funding and (ii) ensure that the Equity Cure Funding so utilised is sufficient to ensure that a breach of such Financial Covenant will not occur in the next Measurement Period (an "Equity Cure"), subject to clause 8.4.*

## 8.4 An Equity Cure may only take place on the following terms and conditions:

- 8.4.1 *an Equity Cure may only be effected on a date prior to the date falling 15 (fifteen) Business Days after the earlier of:*
  - 8.4.1.1 *the date on which the Issuer is required to deliver the relevant Compliance Certificate; and*
  - 8.4.1.2 *the date on which the Compliance Certificate is received by the Preference Share Agent;*
- 8.4.2 *no more than 2 (two) Equity Cures may be effected prior to the Interim Discharge Date;*
- 8.4.3 *no more than 1 (one) Equity Cure may be effected during any 2 (two) consecutive Measurement Periods;*
- 8.4.4 *upon effecting an Equity Cure:*
  - 8.4.4.1 *the Issuer shall be obliged to deliver a certificate signed by a director of the Issuer which certificate must:*
    - 8.4.4.1.1 *stipulate the reason for the breach (or anticipated breach) of the Financial Covenant to be cured pursuant to the Equity Cure;*
    - 8.4.4.1.2 *be accompanied by a pro forma revised set of management accounts of the Group, the Relevant Group Companies or the New UK PropCos, as the case may be, taking into account the applicable Equity Cure Funding on the basis set out in clause 8.4.4.2, and demonstrating compliance with all Financial Covenants;*
  - 8.4.4.2 *upon the Issuer implementing any Equity Cure in accordance with clause 8.3 and 8.4, the Equity Cure Funding shall be applied as if the Outstanding A Preference Shares have been reduced and redeemed (notwithstanding that the Outstanding A Preference Shares were not redeemed), and shall be applied in the recalculation of the Financial Covenants as follows:*

- 8.4.4.2.1 *the Debt to Equity Ratio shall be recalculated, on a pro forma basis, as if the Equity Cure Funding had been applied in reducing the Outstanding A Preference Shares on the Measurement Date on which the relevant Financial Covenant was breached (or was anticipated to be breached), so as to reduce the Net Debt on that Measurement Date; and/or*
- 8.4.4.2.2 *the Interest Cover Ratio shall be recalculated, on a pro forma basis, as if the Equity Cure Funding had been applied in reducing the Outstanding A Preference Shares at the beginning of the Measurement Period which ends on the Measurement Date on which the relevant Financial Covenant was breached (or was anticipated to be breached), so as to reduce the Net Finance Charges for that Measurement Period; and/or*
- 8.4.4.2.3 *the Preference Dividend Cover Ratio shall be recalculated, on a pro forma basis, as if the Equity Cure Funding had been applied in reducing the Outstanding A Preference Shares at the beginning of the Measurement Period which ends on the Measurement Date on which the relevant Financial Covenant was breached (or was anticipated to be breached), so as to reduce the Preference Dividends paid, payable, accrued or in respect of the Outstanding A Preference Shares for that Measurement Period; and/or*
- 8.4.4.2.4 *the Loan to Value Ratio and the Preference Share to Value Ratio shall be recalculated, in each instance on a pro forma basis, as if the Equity Cure Funding had been applied in reducing the Outstanding A Preference Shares at the beginning of the Measurement Period which ends on the Measurement Date on which the relevant Financial Covenant was breached (or was anticipated to be breached), so as to reduce the number of the Outstanding A Preference Shares on that Measurement Date.*

8.5 *If, after application of the provisions of clauses 11.24 and 8.3 of these A Preference Share Terms, the requirements of the Financial Covenants are met, there shall (be deemed to have been no breach of the Financial Covenants and any resulting Trigger Event or Potential Trigger Event shall be deemed remedied and waived for the applicable Measurement Period, provided that the Equity Cure Funding is sufficient to ensure that the requirements of clause 8 are met in respect of the Financial Covenants in respect of the immediately following Measurement Period on a forecasted basis.*

8.6 *Nothing in clauses 8.3 and 8.4 shall oblige the Issuer to redeem any Outstanding A Preference Shares.*

#### **Publication**

8.7 *If clause 15 applies, the Issuer shall publish an announcement on SENS which sets out the Issuer's determination of the Financial Covenants.*

#### **Form of Compliance Certificate**

8.8 *The Compliance Certificate shall be signed by the chief executive officer and financial director of the Issuer, and be in the form of Annexure "1" (Form of Compliance Certificate), or in such other form as may be agreed between the Issuer and the Preference Share Agent.*

### **9. WARRANTIES**

9.1 *In addition to any warranties given elsewhere in the Finance Documents by the Issuer to the Holders, the Issuer hereby gives the warranties contained in this clause 9 to the Holders. Each such warranty:*

9.1.1 *is a separate and distinct warranty;*

9.1.2 *shall be deemed to be material except if the Issuer proves otherwise;*

9.1.3 *has induced the Holders to subscribe for or acquire the A Preference Shares; and*

9.1.4 *is given, except where otherwise indicated, as at each Actual Issue Date, each Dividend Payment Date, each Actual A Redemption Date, the Interim Discharge Date and each day in between until the Interim Discharge Date.*

### **Status**

- 9.2 *The Issuer and each Group Company is a company or limited liability partnership, as the case may be, duly incorporated and validly existing under the laws of its jurisdiction of incorporation.*
- 9.3 *The Issuer and each Group Company have the power to own its assets and carry on its business as it is being conducted.*

### **Capacity, powers and authority**

- 9.4 *The Issuer has the legal capacity and power to conclude each Finance Document and to perform its obligations under those Finance Documents.*

### **Legal validity**

- 9.5 *As at each Actual Issue Date, the obligations of the Issuer, as contained in the Finance Documents to which it is a party, are valid, binding and enforceable against the Issuer in accordance with their respective terms and do not conflict with any Applicable Laws which are binding on the Issuer.*

### **Non-conflict with other obligations**

- 9.6 *The entry into, the performance by the Issuer of, and the transactions contemplated by the Finance Documents do not:*
- 9.6.1 *conflict with the Issuer's Constitutional Documents or any other contract or document which is binding on the Issuer; or*
- 9.6.2 *constitute a default or termination event (however described) under any contract or document which is binding on the Issuer.*

### **Share Capital**

- 9.7 *As at the first Business Day after the first Subscription Date:*
- 9.7.1 *the Issuer will have an authorised share capital consisting of:*
- 9.7.1.1 *210,000,000 (two hundred and ten million) Ordinary Shares; and*
- 9.7.1.2 *89,250,000 (eighty nine million two hundred and fifty thousand) N Preference Shares;*
- 9.7.1.3 *40,000,000 (forty million) Unspecified Shares; and*
- 9.7.1.4 *65,000,000 (sixty five million) A Preference Shares.*
- 9.7.2 *the Issuer will have an issued share capital consisting of:*
- 9.7.2.1 *155,600,421 Ordinary Shares;*
- 9.7.2.2 *57,391,218 N Preference Shares; and*
- 9.7.2.3 *such number of A Preference Shares issued on the first Actual Issue Date;*

### **Authorisations**

- 9.8 *All authorisations required by the Issuer in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, the Finance Documents to which they are party have been obtained or effected (as appropriate) and are in full force and effect.*
- 9.9 *All authorisations required by the Issuer and each Material Group Company to carry on its business in the ordinary course and in all material respects as it is being conducted have been obtained or effected (as appropriate) and are in full force and effect.*

### **Financial statements**

- 9.10 *The Financial Statements or reviewed consolidated financial statements for a Half Year most recently delivered to the Preference Share Agent pursuant to clause 10.1 have been prepared in accordance with the requirements of the Accounting Principles, consistently applied, except as expressly disclosed to the contrary in those financial statements or in writing to the Preference Share Agent.*

### **Legal proceedings**

- 9.11 *As at the Actual Issue Date (save as disclosed in writing to the Preference Share Agent prior to the Actual Issue Date pursuant to clause 10.7.3), no litigation, arbitration, expert determination, alternative dispute resolution or administrative proceedings of or before any court, arbitral body or agency are current or, to the best of the each of the Issuer's knowledge and belief, pending or threatened against the Issuer or any Group Company, (i) the aggregate value of which litigation, arbitration, expert determination, alternative dispute resolution or administrative proceedings exceeds £25,000 (twenty five thousand Pounds Sterling), or (ii) which, if awarded against the Issuer and/or the relevant Group Company, would result or is reasonably likely to result in a Material Adverse Change.*

### **Payment of Taxes**

- 9.12 *Neither the Issuer nor any Group Company is overdue in the filing of any Tax returns or filings relating to any amount of Tax, nor is it overdue in the payment of any Tax, in excess of £100,000 (one hundred thousand Pounds Sterling), save to the extent that payment of any such Tax is being contested in good faith, adequate reserves are being maintained for payment of that Tax and payment of such Tax can be lawfully withheld.*
- 9.13 *As at the Actual Issue Date, no claims or investigations by any Tax authority are being made, conducted or, to the best of the Issuer's knowledge and belief and after having made reasonable enquiries, are reasonably likely to be made or conducted against the Issuer or any Group Company.*

### **No default**

- 9.14 *No Trigger Event or Potential Trigger Event is Continuing or will result from the conclusion of, or the performance of any transaction contemplated by, any Finance Document.*
- 9.15 *As at the Actual Issue Date (save as disclosed in writing to the Preference Share Agent prior to the Actual Issue Date), neither the Issuer nor any Group Company is in breach of or in default under any material agreement to which it is a party or which is binding on any of its assets, or under any of its Constitutional Documents.*

### **Compliance with laws**

- 9.16 *The Issuer and each Group Company has complied with all its obligations under all Applicable Laws which are binding on it and material to the conduct of its business, to the extent to which any failure to so comply would result in any liability for any Group Company, or the Group (taken as a whole), for an aggregate value which exceeds £25,000 (twenty five thousand Pounds Sterling).*

### **Insolvency**

- 9.17 *As at the Actual Issue Date, each Dividend Payment Date and each Actual A Redemption Date, none of the circumstances listed in clause 12.16 (Insolvency) or clause 12.17 (Insolvency Proceedings) of the A Preference Share Terms has occurred and is Continuing in relation to the Issuer or any Group Company.*

### **Information**

- 9.18 *All information provided by or on behalf of the Issuer to any Holder in connection with the Finance Documents is true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated to be given, except to the extent to which any such information is untrue and/or inaccurate as a result of any bona fide error made in the disclosure thereof and if the Issuer wishes to contend that any information disclosed by it (or on its behalf) to any Holder was untrue and/or inaccurate in a material respect due to a bona fide error, the onus of proving both that an error was committed and that it was bona fide shall be on the Issuer.*

9.19 No information has been withheld by the Issuer which, if disclosed, might result in any information which has been supplied by or on behalf of the Issuer being untrue or misleading in any material respect.

9.20 Subject to the exception contained in clause 9.18 (which shall apply to this clause 9.20 with the necessary changes) any representation or statement made in any notice or other document, certificate or statement required to be delivered by the Issuer pursuant to these A Preference Share Terms and/or any other Finance Document to which it is a party, will be true and accurate in all material respects as at the date on which the relevant representation or statement is made.

### **The A Preference Shares**

9.21 Each Preference Share will be validly issued to the relevant Subscribers thereof and, as a result of the holding of each such Preference Share, each Holder will (in respect of that A Preference Share) be entitled to the rights and privileges set out in the A Preference Share Terms.

### **Dividends and Tax**

9.22 Each A Preference Dividend will, in respect of the full amount of such A Preference Dividend:

9.22.1 be made in compliance with section 46 of the SA Companies Act and the Issuer undertakes to comply with the requirements of section 46 of the SA Companies Act prior to paying any A Preference Dividend and undertakes to maintain appropriate records as proof of such compliance;

9.22.2 constitute a "foreign dividend" as defined in section 1 of the SA Tax Act, and a "dividend" as defined in section 64D of the SA Tax Act; and

9.22.3 be generally exempt from SA Corporate Tax in the hands of all Resident Beneficiaries who are SA Corporates; and

9.22.4 be generally subject to SA Dividends Tax, but on the basis that SA Corporates are exempt from such SA Dividends Tax.

### **Group Companies**

9.23 The Issuer, directly or indirectly, holds 100% (one hundred percent) of the issued Equity Shares of Tradegro Holdings and Tradegro.

9.24 On the first Actual Issue Date, Tradegro (acting through its Swiss Branch, where applicable), directly or indirectly, holds 85% (eighty five percent) of the issued Equity Shares of Moorgarth Holdings.

9.25 Moorgarth Holdings, directly or indirectly, holds 100% (one hundred percent) of the issued Equity Shares of each Relevant Group Company.

### **Group Structure Chart**

9.26 The Group Structure Chart delivered to the Preference Share Agent prior to the first Actual Issue Date is true, complete and accurate in all material respects and shows the following information:

9.26.1 each member of the Group, including current name and company registration number, its jurisdiction of incorporation and/or establishment, a list of shareholders and indicating whether a company is a dormant Subsidiary or is not a company with limited liability; and

9.26.2 all minority interests in any member of the Group and any person in which any member of the Group holds shares in its issued share capital or equivalent ownership interest of such person.

### **Use of Proceeds**

9.27 None of the proceeds from the issue of any A Preference Shares shall be invested in South Africa or placed in deposit in a South African bank account.

## **Sanctions**

9.28 None of the Issuer nor any Group Company:

9.28.1 is using or will use the proceeds of the issue of the A Preference Shares for the purpose of financing or making funds available, directly or indirectly, to any person or entity which is currently listed on a Sanctions List or located in a Sanctioned Country, to the extent such financing or provision of funds is prohibited by Sanctions or would otherwise cause any person to be in breach of Sanctions;

9.28.2 is contributing or will contribute or otherwise make available the proceeds of the issue of the A Preference Shares to any other person or entity for the purpose of financing the activities of any person or entity which is currently listed on a Sanctions List or located (or ordinarily resident) in a Sanctioned Country, to the extent such contribution or provision of proceeds is prohibited by Sanctions or would otherwise cause any person to be in breach of Sanctions;  
or

9.28.3 has been or is targeted under any Sanctions or has been included in any Sanctions List; or

9.28.4 has violated or is violating any applicable Sanctions.

## **10. INFORMATION UNDERTAKINGS**

### **Financial Statements**

10.1 Until the Interim Discharge Date the Issuer shall, in sufficient copies for all the Holders, supply to the Preference Share Agent:

10.1.1 as soon as they are available but in any event within 120 (one hundred and twenty) days after the last day of each Financial Year which ends after the Actual Issue Date, its Financial Statements for that Financial Year; and

10.1.2 as soon as they are available but in any event within 120 (one hundred and twenty) days after the last day of each Half Year which ends after the Actual Issue Date its reviewed semi-annual consolidated financial statements for that Half Year.

### **Compliance Certificate**

10.2 In each Compliance Certificate delivered by the Issuer to the Preference Share Agent in terms of clause 8.1, the chief executive officer and the financial director of the Issuer (acting in his/her capacity as such) shall:

10.2.1 certify that no Trigger Event or Potential Trigger Event has occurred; or

10.2.2 if a Trigger Event or a Potential Trigger Event has occurred, set out the details of that event and, if the Trigger Event or Potential Trigger Event is Continuing, the steps which the Issuer has taken or proposes to take in order to remedy that event.

### **Requirements for Financial Statements**

10.3 The Issuer shall ensure that each set of Financial Statements supplied by it under these A Preference Share Terms:

10.3.1 consists of at least a balance sheet, a profit and loss account, a cashflow statement and a statement of changes in its equity for the financial period then ended; and

10.3.2 is prepared in accordance with the Accounting Principles and complies with the requirements of the SA Companies Act.

10.4 Until the Interim Discharge Date the Issuer shall notify the Preference Share Agent of any material change to its accounting policies or the manner in which its Financial Statements delivered under clause 10.1 are prepared by way of an announcement on SENS.

10.5 If requested by a Holder, the Issuer shall promptly supply to that Holder:

10.5.1 a full description of any change notified under clause 10.4 above; and

10.5.2 sufficient information to enable the Preference Share Agent to make a proper comparison between the financial position reflected by the set of Financial Statements prepared on the



changed basis and the most recent Financial Statements delivered to the Preference Share Agent under these A Preference Share Terms.

### **Valuations**

- 10.6 Until the Interim Discharge Date, the Issuer shall cause to be prepared:
- 10.6.1 a Valuation of each Property owned by a Relevant Group Company or each New UK PropCo in writing at least once in every 3 (three) consecutive year period; and
  - 10.6.2 without derogating from clause 10.6.1, upon the written request of the Preference Share Agent a Valuation of all or any Property/ies (or any portion thereof) owned by a Relevant Group Company and any Replacement Property, at the Issuer's cost.

### **Information: Miscellaneous**

- 10.7 Until the Interim Discharge Date, the Issuer shall supply to the Preference Share Agent:
- 10.7.1 copies of each Valuation contemplated in clause 10.6, any internal valuations of any one or more Properties performed by or on behalf of the Issuer as soon as practicable after they have been prepared;
  - 10.7.2 copies of all documents despatched by it to its creditors generally, or any class of them, and its shareholders generally, or any class of them, at the same time as they are despatched;
  - 10.7.3 promptly upon becoming aware of them, details of any litigation, arbitration, expert determination, alternative dispute resolution or administrative proceedings which are current, threatened or pending against it or any other Material Group Company, the aggregate value of which litigation, arbitration, expert determination, alternative dispute resolution or administrative proceedings exceeds £1,500,000 (one million five hundred thousand Pounds Sterling); and
  - 10.7.4 promptly on request, such further information regarding its consolidated financial condition, business and/or operations as the Preference Share Agent may reasonably request; and
  - 10.7.5 promptly upon the disposal of any asset or assets (whether in a single transaction or in a series of related transactions) with an aggregate value of £1,500,000 (one million five hundred thousand Pounds Sterling) or more, details of the assets disposed of and the value for which such assets were disposed of.
- 10.8 Until the Interim Discharge Date, the Issuer shall advise the Preference Share Agent in writing if:
- 10.8.1 it dismisses or replaces its auditors, such advice to be delivered to the Preference Share Agent within 10 (ten) days after the date of such dismissal or replacement; and
  - 10.8.2 it changes the end of its Financial Year, such advice to be delivered to the Preference Share Agent within 10 (ten) days after it adopts a resolution for such change.

### **Notification of Events**

- 10.9 Until the Interim Discharge Date, the Issuer shall notify the Preference Share Agent of the occurrence of any Trigger Event or Potential Trigger Event (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

## **11. GENERAL UNDERTAKINGS**

### **Giving of Undertakings**

- 11.1 The Issuer hereby gives the undertakings contained in this clause 11 to each Holder. Each such undertaking:
- 11.1.1 is a separate and distinct undertaking;
  - 11.1.2 is given, except where otherwise indicated, for the entire period which commences on the Actual Issue Date and ends on the Interim Discharge Date; and
  - 11.1.3 shall not be qualified by any other undertaking contained in the Finance Documents (except if that other undertaking specifically qualifies the applicable undertaking).

### **Applicable Laws**

- 11.2 The Issuer shall:
- 11.2.1 obtain all authorisations required under any Applicable Laws to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability and/or admissibility into evidence of each such Finance Document;
  - 11.2.2 obtain, and procure that each Group Company obtains, all approvals which it may require, in terms of any Applicable Law, for the conduct of its business;
  - 11.2.3 take, and procure that each Group Company takes, all reasonable steps to maintain, and to comply with the terms of, each authorisation envisaged in clause 11.2.1 or 11.2.2;
  - 11.2.4 comply, and procure that each Group Company complies, with all Applicable Laws which are binding on it and each Group Company and material for the conduct of its and each Group Company's business.

### **Taxation**

- 11.3 The Issuer shall, and the Issuer shall procure that each other Group Company shall, duly and punctually pay and discharge all Taxes imposed upon it or its assets within the period allowed under the Applicable Laws, without incurring penalties, save to the extent that payment of any such Tax is being contested in good faith, adequate reserves are being maintained for payment of that Tax and payment of such Tax can be lawfully withheld
- 11.4 The Issuer shall be in compliance with the provisions of clause 11.3 if the failure by the Issuer or a Group Company to duly and punctually pay or discharge any Taxes is in respect of an amount of Tax of less than £100,000 (one hundred Pounds Sterling).
- 11.5 The Issuer shall not, and the Issuer shall procure that each other Group Company shall not, change its residence for Tax purposes without the Preference Share Agent's prior written consent.

### **Merger**

- 11.6 The Issuer shall not, and the Issuer shall procure that each other Material Group Company shall not, prior to the Interim Discharge Date, enter into any amalgamation, demerger, merger or corporate reconstruction with a company other than another Group Company without the Preference Share Agent's prior written consent, provided that after the Interim Discharge Date the Preference Share Agent shall not unreasonably withhold such consent if the contingent liability of the Issuer to the Holders on account of the A Preference Shares and under these A Preference Share Terms until the Interim Discharge Date is assumed and/or retained by an entity to the satisfaction of the Preference Share Agent.

### **Change of Business**

- 11.7 The Issuer shall not (and the Issuer shall procure that each other Material Group Company shall not) make any substantial change to the general nature of its business from that which it carried on as at the Actual Issue Date.

### **Arms' Length Basis**

- 11.8 The Issuer shall not, and the Issuer shall procure that each other Material Group Company shall not, enter into any transaction with any person except on arms' length terms and at fair market value (save to the extent that assets are acquired by the Issuer or Material Group Company at a discount to market value).

### **Conduct of Business**

- 11.9 The Issuer shall not, and the Issuer shall procure that each other Material Group Company shall not, enter into any transaction, arrangement or contract with any person other than in the ordinary course of its business.
- 11.10 The Issuer shall not make any loans or otherwise provide any other financial assistance to any other person other than (i) in the manner and to the extent envisaged by the Finance Documents, (ii) with

the prior written consent of the Preference Share Agent, or (iii) pursuant to inter-company loans to other members of the Group in the ordinary course of business.

### **Negative Pledge**

11.11 In clause 11.13, "Quasi-Security" means an arrangement or transaction described in clause 11.12.2.

11.12 Except as permitted under clause 11.13:

11.12.1 the Issuer shall not create or permit to subsist any Security Interest over any of its assets;  
and

11.12.2 the Issuer shall not:

11.12.2.1 sell, transfer or otherwise Dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by the Issuer or any other member of the Group;

11.12.2.2 sell, transfer or otherwise Dispose of any of its receivables on recourse terms;

11.12.2.3 enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

11.12.2.4 enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

11.13 Clause 11.12 does not apply to any Security Interest or (as the case may be) Quasi-Security which is a Permitted Security Interest.

### **Guarantees**

11.14 Except as permitted under clause 11.15, the Issuer shall not issue, grant or give any guarantee in favour of a third party.

11.15 Clause 11.14 does not apply to any guarantee which is Permitted Guarantee.

### **Access**

11.16 The Issuer shall permit the Preference Share Agent and/or its accountants or other professional advisors and/or contractors, free and reasonable access at all reasonable times and on reasonable notice, at its own risk and cost to (i) its and each Group Company's premises, assets, books, accounts and records, and (ii) meet and discuss matters with its and each Group Company's senior managers, and (iii) meet and discuss matters with its and each Group Company's auditors.

### **Financial Indebtedness**

11.17 The Issuer shall not incur any Financial Indebtedness other than Permitted Indebtedness.

### **Loans or credit**

11.18 Save for any Permitted Loans, the Issuer shall not be a creditor in respect of any Financial Indebtedness, or provide any financial assistance to any third party.

### **Constitutional Documents**

11.19 Save pursuant to the adoption of the Issuer Creation Resolution, the Issuer shall not amend its Constitutional Documents other than with the Preference Share Agent's prior written consent.

11.20 The Issuer shall do all things necessary to maintain its corporate existence.

### **Auditors**

11.21 The Issuer shall not change its auditors other than to any one of Ernst & Young, KPMG, Deloitte or PricewaterhouseCoopers.

### **Exemption in relation to SA Dividends Tax**

11.22 Should the Issuer be required in terms of any Applicable Law to obtain any information, declaration or document be required from any Beneficiaries in order to satisfy the requirements of any applicable exemption in relation to SA Dividends Tax, then the Issuer shall timeously request such information, declaration or document from the Preference Share Agent by written notice, and the Holders shall (on behalf of the relevant Beneficiaries) be obliged to provide such information, declaration or document by the date determined by the Issuer.

### **Distributions**

11.23 The Issuer shall not, without the Preference Share Agent's prior written consent, make any Distributions save for:

11.24 the A Preference Dividends;

11.24.1 Capital Distributions in respect of the A Preference Shares;

11.24.2 the redemption of the Outstanding A Preference Shares; and

11.24.3 dividends to the holders of its Ordinary Shares ("**Ordinary Dividends**"), provided that:

11.24.3.1 a Trigger Event or Potential Trigger Event has not occurred and will not occur as a result of the payment of the relevant Ordinary Dividends;

11.24.3.2 the Issuer has complied with the Financial Covenants immediately prior to the declaration of such Ordinary Dividends, and will continue to comply with the Financial Covenants after the Ordinary Dividends are paid;

11.24.3.3 as at the date of the declaration of the proposed Ordinary Dividend, all the A Preference Dividends and Capital Distributions which the Issuer has contracted to pay under the A Preference Share Terms up to and including such date have been paid in full.

### **Equity Cure**

11.25 If the Issuer wishes to utilise Equity Cure Funding in the circumstances and in accordance with the provisions of clause 8.3, the Issuer shall procure that the Equity Cure Funding is immediately paid into the Issuer Account.

### **Application of the Preference Share Proceeds**

11.26 The Issuer shall procure that:

11.25.1.1 by the not later than the 1st (first) Measurement Period after the issue of the last A Preference Share that the UK Acquisition and Refurbishment Requirement has been complied with; and

11.25.1.2 the Properties taken into account in complying with the UK Acquisition and Refurbishment Requirement shall also meet the following criteria on a weighted average basis, based on acquisition price:

11.25.1.2.1 a minimum net yield (after taking into account any property specific expenses) of 4.5% (four comma five percent); and

11.25.1.2.2 Financial Indebtedness raised to acquire the Properties will not exceed 60% (sixty percent) of the acquisition price (on an interest only basis) of the Properties,

unless either:

11.25.1.2.3 the Interest Cover Ratio in respect of the immediately 2 (two) succeeding Measurement Dates, following the last acquisition of a Property in the United Kingdom using the proceeds from the issue of the A Preference Shares, are equal to or exceed 2.5 (two point five) times; or

11.25.1.2.4 the written consent of the Preference Share Agent is obtained in respect of the acquisition which causes the non-compliance with 11.25.1.1 and 11.25.1.2.2 prior to such acquisition taking place.

### **Loans on Demand**

11.27 The Issuer shall procure that any inter-company loans advanced to Restricted Entities shall be repayable on demand, and shall not be subordinated in favour of third parties.

### **Group Companies**

11.28 The Issuer shall procure that, within 6 (six) months following the first Actual Issue Date, Tradegro (acting through its Swiss Branch, where applicable) will hold not less than 95% (ninety five percent) of the issued Equity Shares in Moorgarth Holdings, during which period Tradegro (acting through its Swiss Branch, where applicable) will acquire an additional 10% (ten percent) of the issued Equity Shares in Moorgarth Holdings it did not already own at the commencement of the Preference Share Programme.

### **Preference Share Purpose**

11.29 The Issuer shall apply the proceeds of the issue of the A Preference Shares for the Preference Share Purpose.

### **Sanctions**

11.30 Notwithstanding any other provision in these A Preference Share Terms, the Issuer shall not:

11.30.1 use the proceeds of the issue of any A Preference Shares for the purpose of financing directly or indirectly (or otherwise make available) the activities of (or otherwise making available to) any person or entity which is currently listed on any Sanctions List or in a country which is currently subject to any Sanctions, to the extent such financing would currently be prohibited by the Sanctions if conducted by a person in the United States of America or the United Kingdom; and/or

11.30.2 contribute or otherwise make available the proceeds of the issue of any A Preference Shares to any other person or entity if the Issuer has actual knowledge that such party intends to use such proceeds for the purpose of financing the activities of any person or entity which is currently on any Sanctions List or in a country which is subject to any Sanctions, to the extent such financing would currently be prohibited by any Sanctions if conducted by a person in the United States of America or the United Kingdom.

11.30.3 Each Holder discloses to the Issuer that it complies and will or may in future comply with international and local anti-money laundering, counter terrorist financing, financial sanctions and prohibited business activity laws, regulations, policies and requirements. Therefore, each Holder may initially screen, verify and process all the Issuer and related information and thereafter monitor all information, instructions and transactions by and on behalf of the Issuer in relation to all transactions and to the business relationship on a continuous basis.

11.30.4 The operation of the provisions of clause 11.29.3 may result in the prohibition, limitation, delay in the execution of instructions or transactions and even in the declaring or terminating of any transaction or the business relationship between the Issuer and a Holder. To the extent permitted, a Holder shall advise the Issuer of any action it intends to take in terms hereof.

11.30.5 The Issuer acknowledges and confirms that neither any Holder nor its Affiliates, employees, officers, or directors, shall be liable for any direct, indirect or consequential loss, damage, costs or expenses whatsoever that may be suffered or incurred by the Issuer or any member of the Group as a result of, arising from or relating to any such prohibition, limitation, delay, decline or termination due to the implementation of this clause 11.29.

### **Novation of Tradegro Hedging Agreement**

11.31 The Issuer undertakes to procure that if Tradegro (acting through its Swiss Branch, where applicable) commits an event of default under the Tradegro Facility Agreement and the Issuer exercises its right under a Relevant Group Company Guarantee, the Issuer shall procure that Tradegro (acting through its Swiss Branch, where applicable) novates the relevant Tradegro Hedging Agreements to the applicable Relevant Group Company to enable the applicable Relevant Group Company to convert the GBP proceeds to ZAR in terms of the Tradegro Hedging Agreement to enable the Relevant Group Company to meet its obligations in terms of the Relevant Group Company Guarantee.

## 12. **TRIGGER EVENTS**

12.1 Each of the events or circumstances set out in this clause 12 is a Trigger Event, whether or not the occurrence of such event is within the Issuer's control.

### **Failure to comply with section 46 of the SA Companies Act**

12.2 The Issuer fails to comply with the requirements of section 46 of the SA Companies Act in respect of the payment of any A Preference Dividend, Capital Distribution or A Redemption Final Payments and such failure is not remedied within 5 (five) Business Days of receipt of written notice from the Preference Share Agent calling upon the Issuer to remedy such failure.

### **Failure to pay Dividends**

12.3 On any Dividend Payment Date the Issuer fails to declare and pay A Preference Dividends in the amount determined in accordance with clause 5.3 of these A Preference Share Terms for any reason whatsoever, and the Issuer fails to remedy such breach within 1 (one) Business Day of receipt of written notice from the Preference Share Agent.

12.4 No Trigger Event under clause 12.3 will occur if the failure to pay is caused by administrative or technical error and payment is made within 2 (two) Business Days of its due date.

### **Scheduled Redemption**

12.5 The Issuer fails to redeem all the Outstanding A Preference Shares on the Scheduled A Redemption Date and/or fails to declare and pay all the A Preference Dividends in respect of all the A Preference Shares by the Scheduled A Redemption Date, and the Issuer fails to remedy such breach within 1 (one) Business Day of receipt of written notice from the Preference Share Agent.

12.6 No Trigger Event under clause 12.5 will occur if the failure to pay is caused by administrative or technical error and payment is made within 2 (two) Business Days of its due date.

### **Breach of Undertakings**

12.7 The Issuer fails to comply with any undertaking given by it to the Holders in terms of the Finance Documents except if that non-compliance:

12.7.1 is capable of remedy; and

12.7.2 is remedied within 10 (ten) Business Days after the date on which the Preference Share Agent gives notice of the breach to the Issuer.

### **Breach of other obligations**

12.8 The Issuer fails to comply with any obligation imposed on it under any Finance Document, other than an obligation envisaged in clauses 12.3, 12.5 and 12.7 except if that non-compliance:

12.8.1 is capable of remedy; and

12.8.2 is remedied within 10 (ten) Business Days after the date on which the Preference Share Agent gives written notice of the breach to the Issuer.

### **Financial Covenants**

12.9 Subject to clause 8.3, the Issuer fails to comply with any Financial Covenant.

### **Change of Control**

12.10 A Change of Control occurs without the prior written consent of the Preference Share Agent.

### **Misrepresentation**

12.11 Any warranty given by the Issuer to the Holders in any Finance Document is incorrect or misleading in any material respect, and the Issuer fails to remedy such breach within 5 (five) Business Day of receipt of written notice from the Preference Share Agent.

### **Cross-default**

12.12 Any of the following occurs in respect of the Issuer, Tradegro Holdings or any Material Group Company:

12.12.1 any of its Financial Indebtedness is not paid when due, after the expiry of any originally applicable grace period;

12.12.2 any of its Financial Indebtedness is declared to be or otherwise becomes due and payable before its specified maturity, is placed on demand or is capable of being declared by or on behalf of a creditor to be prematurely due and payable or of being placed on demand, in each case, as a result of an event of default (howsoever described);

12.12.3 any of its creditors becomes entitled to foreclose on any security interest given to secure any of its Financial Indebtedness,

and the Issuer, Tradegro Holdings or such Material Group Company fails to remedy such breach within 5 (five) Business Days of receipt of written notice from the Preference Share Agent.

### **Group Companies**

12.13 The Issuer ceasing to hold, directly or indirectly, 100% (one hundred percent) of the issued Equity Shares of Tradegro Holdings and Tradegro.

12.14 The Issuer, after the expiry of the 6 (six) month period contemplated in clause 9.23, ceasing to hold, directly or indirectly, 95% (ninety five percent) of the issued Equity Shares of Moorgarth Holdings.

12.15 Moorgarth Holdings ceasing to hold, directly or indirectly, 100% (one hundred percent) of the issued Equity Shares of each Relevant Group Company.

### **Insolvency**

12.16 Any of the following occurs in respect of the Issuer, Tradegro Holdings or any Material Group Company:

12.16.1 it is, or is deemed for the purposes of any Applicable Law to be, insolvent or unable to pay its debts as they fall due;

12.16.2 it admits an inability to pay its debts as they fall due;

12.16.3 it suspends making payments of all or any category of its debts or announces an intention to do so;

12.16.4 by reason of actual or anticipated financial difficulties, it begins negotiations with any creditor for the rescheduling of any of its indebtedness;

12.16.5 the value of its assets is less than its liabilities (taking into account contingent and prospective liabilities); or

12.16.6 a moratorium is declared in respect of any of its indebtedness (in which event the ending of the moratorium will not remedy any Trigger Event caused by that moratorium),

and the Issuer, Tradegro Holdings or such Material Group Company fails to remedy such breach within 1 (one) Business Day of receipt of written notice from the Preference Share Agent.

### **Insolvency Proceedings**

12.17 Any of the following occurs in respect of the Issuer, Tradegro Holdings or any Material Group Company:

12.17.1 any step (including an application or a petition to court, proposal or convening of a meeting) is taken with a view to a moratorium or a composition or similar arrangement with any of its creditors;

12.17.2 the proposal of any resolution by it to commence business rescue proceedings or the taking of any step by it pursuant to which it contemplates the commencement of business rescue proceedings;

- 12.17.3 a meeting of its shareholders or directors is convened for the purpose of considering a resolution for its voluntary liquidation;
- 12.17.4 any person brings an application, or files documents with a court or any registrar, for its winding-up, judicial management, business rescue or dissolution except if such application or filing is spurious or vexatious (and if a dispute arises between any Holder and the Issuer, in relation to any question whether any such application or filing is spurious or vexatious, the onus to prove that the filing is spurious and/or vexatious shall be on the Issuer);
- 12.17.5 it is or is deemed by any authority or legislation to be financially distressed (as defined in the SA Companies Act);
- 12.17.6 an order for its winding-up, judicial management, dissolution, reorganisation (by way of a scheme of arrangement or otherwise) or business rescue is made;
- 12.17.7 any liquidator, business rescue practitioner, administrator or similar officer is appointed in respect of it or any of its assets;
- 12.17.8 its shareholders, directors or other officers request the appointment of, or give notice of their intention to appoint, a liquidator, judicial manager, business rescue practitioner or similar officer; or
- 12.17.9 any other analogous step or procedure is taken in any jurisdiction,
- and the Issuer, Tradegro Holdings or such Material Group Company fails to remedy such breach within 1 (one) Business Day of receipt of written notice from the Preference Share Agent.

#### **Creditors' Process**

- 12.18 Any asset of the Issuer, Tradegro Holdings or any Material Group Company is attached under a writ of execution and the Issuer, Tradegro Holdings or such Material Group Company fails to ensure that such writ is lifted or stayed within 30 (thirty) days after the date on which it first becomes aware thereof.

#### **Cessation of Business**

- 12.19 The Issuer or a Material Group Company ceases to carry on its business in the normal and ordinary course thereof, and the Issuer or such Material Group Company fails to remedy such breach within 1 (one) Business Day of receipt of written notice from the Preference Share Agent.

#### **Unlawfulness of Finance Documents**

- 12.20 It is or becomes unlawful for the Issuer or a Group Company to perform any of its obligations under the Finance Documents, unless such unlawfulness:
- 12.20.1 is capable of remedy; and
- 12.20.2 is remedied within 5 (five) Business Days of the earlier of the Preference Share Agent giving notice of the unlawfulness to the Issuer becoming aware of the unlawfulness.

#### **Repudiation**

- 12.21 The Issuer repudiates any of the Finance Documents, and the Issuer fails to remedy such breach within 1 (one) Business Day of receipt of written notice from the Preference Share Agent.

#### **Material Adverse Change**

- 12.22 Any Material Adverse Change occurs.

#### **Financial Indebtedness**

- 12.23 Tradegro (acting through its Swiss Branch, where applicable) or any Relevant Group Company incurs any Financial Indebtedness other than a Permitted Indebtedness.

#### **Guarantee**

- 12.24 Tradegro (acting through its Swiss Branch, where applicable) or any Relevant Group Company issues, grants or gives any guarantee other than a Permitted Guarantee in favour of a third party.



### **Security Interest**

12.25 Tradegro (acting through its Swiss Branch, where applicable) or any Relevant Group Company creates or permits to subsist any Security Interest other than a Permitted Security Interest over any of its assets.

### **Group Documents**

12.26 The invalidity and/or unenforceability of any of the Group Documents (or any of them), or any of the obligations or duties of Tradegro or any Relevant Group Company under any Group Document to which it is a party becomes illegal, invalid or unenforceable.

### **Issuer recourse to Relevant Group Companies**

12.27 The Issuer at any time does not have a legally valid and enforceable claim (in terms of a guarantee, indemnity, payment undertaking or otherwise) against each Relevant Group Company for payment, on demand in accordance with the terms of such guarantee, indemnity, payment undertaking or other obligation, of an amount at least equal to the lower of (i) the value as at the first Actual Issue Date or (ii) the market value of all the Properties owned by that Relevant Group Company, and which claim is secured by one or more legally valid and enforceable Relevant Group Company Charges against all such Properties and all the lease and insurance rights related thereto.

### **Cancellation of Relevant Group Company Charge**

12.28 Any Relevant Group Company Charge is cancelled without a replacement Relevant Group Company Charge being entered into in respect of the Replacement Property.

### **Tradegro Hedging Agreement**

12.29 If the Outstanding A Preference Shares are not redeemed in full on or before the date on which the Tradegro Hedging Agreement expires and/or terminates (for reasons other than an event of default (howsoever described) under the Tradegro Hedging Agreement), the Issuer fails to procure that Tradegro extends the duration of the Tradegro Hedging Agreement to a date not earlier than the date of redemption of all the Outstanding A Preference Shares.

### **Replacement Properties**

12.30 Any Replacement Property is not owned by a Relevant Group Company.

### **Realisation Proceeds**

12.31 The Realisation Proceeds are not (1) used to acquire a Replacement Property within 6 (six) months from receipt of such Realisation Proceeds (or such longer period as the Preference Share Agent may permit in writing), or (2) paid into the Cash Collection Account.

### **Listing Suspended**

12.32 The listing of any Outstanding A Preference Shares on the JSE is suspended or terminated without the prior written consent of the Preference Share Agent, provided that such suspension or termination is not as a result of a technical error or failure by the JSE.

### **Expropriation**

12.33 Any seizure, expropriation or nationalisation by or on behalf of any governmental, regulatory or other authority of the whole or the greater part of the Issuer's and/or any other Material Group Company's business and/or assets.

### **Authorisations**

12.34 Any material authorisation required by the Issuer or a Material Group Company to carry on its business in the ordinary course and in all material respects as it is being conducted is revoked or cancelled by any government or regulatory authority and such authorisation is not reinstated within 5 (five) Business Days of the date upon the Issuer or a Group Company becomes aware of such revocation or termination.

### **Audit Qualification**

12.35 The Issuer's auditors qualify their report on any Financial Statements of the Issuer for any period which ends after the Actual Issue Date.

### **13. RETURN OF CAPITAL**

13.1 On the liquidation of the Issuer, each A Preference Share shall confer on its Holder a right to a return of capital in an amount equal to the aggregate of the A Redemption Final Payments of that A Preference Share calculated up to the day on which that return of capital is paid to the Holder of that A Preference Share.

13.2 The A Preference Shares' rights to a return of capital shall rank prior to the rights to a return of capital of all other classes of shares in the Issuer's share capital, including the Ordinary Shares and the N Preference Shares.

13.3 Save as envisaged in clause 13.1 of these A Preference Share Terms, the A Preference Shares shall not be entitled to participate in the Issuer's excess assets on its liquidation.

### **14. STT INDEMNITY**

The Issuer shall and hereby does indemnify and hold the Holder harmless against any STT and/or any other similar duty which may be or become payable by the Holder in respect of the redemption of any A Preference Shares and, accordingly, the Issuer shall pay to the Holder, on demand, such amount as may be required to place the Holder in the same after-Tax position it would have been in had such STT and/or any other similar duty not been payable.

### **15. VOTING RIGHTS AND GENERAL MEETINGS**

15.1 The Holders shall not be entitled to vote, either in person or by proxy, at any meeting of the shareholders of the Issuer, unless one or more of the following circumstances prevail at the date of the meeting:

15.1.1 any portion of the A Preference Dividends which is due and payable remains in arrear and unpaid;

15.1.2 any portion of the Capital Distributions which is due and payable remains in arrear and unpaid;

15.1.3 any portion of the A Redemption Final Payments which is due and payable remains in arrear and unpaid;

15.1.4 any other resolution of the Issuer is proposed for the winding-up or liquidation, whether provisionally or finally, of the Issuer, or the reduction of the Issuer's capital.

15.2 The Issuer shall be obliged to give the Holders notice, in terms of the SA Companies Act, of any general or adjourned general meeting of the Issuer, whether or not the Holders are entitled to vote at such meeting. At every general or adjourned general meeting at which the Holders are entitled to vote, the provisions of the Issuer's Memorandum of Incorporation relating to general or adjourned general meetings of shareholders of the Issuer shall apply, mutatis mutandis, and each A Preference Share shall, subject to the JSE Listings Requirements from time to time, confer on the Holder thereof such number of votes as is equal to 24.99% (twenty four comma nine nine percent) of the total voting rights exercisable at such general meeting, divided by the number of Outstanding A Preference Shares.

### **16. NON-VARIATION**

16.1 The Issuer shall not issue any shares of any class which ranks prior to the A Preference Shares either in relation to dividends or in relation to returns of capital, without the consent of all the Holders.

16.2 The Issuer shall not alter these A Preference Share Terms in any manner whatsoever, without the approval of a Majority Holders.

16.3 Any notice of a meeting of the Holders convened for purposes of clause 16.1 or 16.2 shall be published on SENS.

## 17. **PAYMENT MECHANICS**

### **Payments to the Preference Share Agent**

17.1 On each date on which the Issuer is required to make a payment under any Finance Document, the Issuer shall make the same available in ZAR for value by no later than 10:00 (Johannesburg time) on the due date and such payment shall be made in accordance with the rules of the relevant central securities depository.

### **Distributions by the Preference Share Agent**

17.2 Each payment received by the Preference Share Agent under the Finance Documents for a Holder shall, subject to clauses 17.3 and 17.4 be made available by the Preference Share Agent, in the case of any payment received by the Preference Share Agent by no later than 12:00 (Johannesburg time), on the date of receipt and, in the case of any payment received by the Preference Share Agent at or after 12:00 (Johannesburg time), on the immediately following Business Day to the Holder entitled to receive payment in accordance with these A Preference Share Terms, to such account as that Holder may notify to the Preference Share Agent by not less than 5 (five) Business Days' notice with a bank in South Africa in writing.

### **Clawback**

17.3 Where a sum is to be paid to the Preference Share Agent under the Finance Documents for a Holder, the Preference Share Agent is not obliged to pay that sum to a Holder (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

17.4 If the Preference Share Agent pays an amount to a Holder and it proves to be the case that the Preference Share Agent had not actually received that amount, then the Holder to whom that amount (or the proceeds of any related exchange contract) was paid by the Preference Share Agent shall on demand refund the same to the Preference Share Agent together with interest on that amount from the date of payment to the date of receipt by the Preference Share Agent, calculated by the Preference Share Agent to reflect its cost of funds.

### **Partial Payments**

17.5 If the Preference Share Agent receives a payment that is insufficient to discharge all the amounts then due and payable by the Issuer under any Finance Documents (the "**Relevant Finance Documents**") the Preference Share Agent shall apply that payment as soon as reasonably practical in reduction of the payment obligations of the Issuer under the Relevant Finance Documents and on a pro rata basis to the Holders under the Relevant Finance Documents in such order of appropriation as the Preference Share Agent deems fit and has notified the Issuer.

17.6 Clause 17.5 will override any appropriation made by the Issuer.

### **Deduction from Amounts Payable**

17.7 If any Holder owes an amount to the Preference Share Agent under the Finance Documents the Preference Share Agent may, after giving notice to that Holder, deduct an amount not exceeding that amount from any payment to that Holder which the Preference Share Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Holder shall be regarded as having received any amount so deducted.

### **No set-off by Issuer**

17.8 All payments to be made by the Issuer under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

### **Business Days**

- 17.9 Unless otherwise provided in these A Preference Share Terms, any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not). In the event that the day for performance of any obligation to be performed in terms of any Finance Document (other than a payment obligation) should fall on a day which is not a Business Day, the relevant day for performance shall be the succeeding Business Day.
- 17.10 If the due date (the "**Due Date**") of payment of any amount under the Finance Documents is Business Day in South Africa but not in Malta, the Issuer shall, notwithstanding clause 17.9, be obliged to pay such amount in the Due Date.

### **Currency of Account**

- 17.11 Subject to clauses 17.12, ZAR is the currency of account and payment for any sum due from the Issuer under any Finance Document.
- 17.12 Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

### **Disruption to Payment Systems etc.**

- 17.13 If either a Holder determines (in its discretion) that a Disruption Event has occurred or the Preference Share Agent is notified by a Holder that a Disruption Event has occurred:
- 17.13.1 the Holder may, and shall if requested to do so by the Issuer, consult with the Issuer with a view to agreeing with the Issuer such changes to the operation or administration of the A Preference Shares as the Holder may deem necessary in the circumstances;
- 17.13.2 the Holder shall not be obliged to consult with the Issuer in relation to any changes mentioned in clause 17.13.1 if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- 17.13.3 any such changes agreed upon by the Holder and the Issuer shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Issuer as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents; and
- 17.13.4 no Holder shall be liable for any damages, costs or losses whatsoever arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this clause 17.13, save where such damage, cost or loss is attributable to the wilful misconduct or gross negligence of such Holder.
- 17.14 For purposes of clause 17.13 "**Disruption Event**" means either or both of:
- 17.14.1 a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the A Preference Shares (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Holders and the Issuer; or
- 17.14.2 the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payment operations of a Holder or the Issuer preventing that, or any other person:
- 17.14.2.1 from performing its payment obligations under the Finance Documents; or
- 17.14.2.2 from communicating with the Preference Share Agent, the Issuer or the Holder, as the case may be, in accordance with the terms of the Finance Documents, and which (in either such case) is not caused by, or is beyond the control of, the person whose operations are disrupted.

## 18. **SET-OFF**

A Holder may set off any matured obligation due from the Issuer under the Finance Documents (to the extent beneficially owned by that Holder) against any matured obligation owed by that Holder to the Issuer, subject always to Applicable Laws.

## 19. **CALCULATIONS AND CERTIFICATES**

### **Accounts**

19.1 In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Holder are prima facie evidence of the matters to which they relate.

### **Certificates and Determinations**

19.2 Any certification or determination by a Holder of a rate or amount under any Finance Document is, in the absence of manifest error, prima facie evidence of the matters to which it relates.

### **Day Count Convention**

19.3 Any interest, dividend, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days (irrespective of whether the year in question is a leap year).

## 20. **NOTICES**

### **Issuer Communication to Holders**

20.1 The issuer shall deliver any notice or make any communication to be made by it under or in connection with the Finance Documents to the Preference Share Agent.

### **Communications in writing and English**

20.2 Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

20.3 Any notice or other document given under or in connection with any Finance Document must be in English.

## 21. **HOLDER ARRANGEMENTS**

### **21.1 Decision Making Procedure**

21.1.1 Save as otherwise provided in this clause 21.1, all Decisions under the Finance Documents shall be taken by the Preference Share Agent on behalf of the Holders acting as set out in these A Preference Share Terms.

21.1.2 In the case of any Decision which is expressly stated to be taken by the Preference Share Agent in these A Preference Share Terms or under any other Finance Document on the instructions of (or only with the consent of) one or more Holders, the Preference Share Agent shall act on the instructions of (and only with the consent of) that or those Holders.

21.1.3 In the case of any Decision to be taken by any Holder under these A Preference Share Terms in relation to any indemnities or similar protection against loss afforded to that Holder, that Decision may be taken by that Holder without the consent of any other Holders.

21.1.4 In the case of any Decision in respect of any matter set out in clause 21.4, the Preference Share Agent shall act on the unanimous instructions of all the Holders.

21.1.5 Subject to the provisions of clauses 21.3 and 21.4, any Decision in respect of any proposed Amendment to or in respect of these A Preference Share Terms, may only be made with the consent of the Majority Holders.

- 21.1.6 *In the case of all other Decisions, the Preference Share Agent shall (unless otherwise expressly stated in these A Preference Share Terms or any other Finance Document) act (or refrain from acting) on the instructions of the Majority Holders.*
- 21.1.7 *If any Decision is to be made in respect of which the Preference Share Agent is requested to, is obliged to, or wishes to, seek the instructions of the Holders, the Preference Share Agent shall as soon as reasonably possible deliver a Decision Request to each Holder whose consent or instruction is required in respect of that Decision.*
- 21.1.8 *Each Holder shall, by no later than the Decision Date specified in a Decision Request, provide a certificate to the Preference Share Agent:*
- 21.1.8.1 *setting out, as at the date of that Decision Request the Outstanding A Preference Shares held by that Holder at that time; and*
- 21.1.8.2 *setting out instructions to the Preference Share Agent as to the matter on which its instructions were sought.*

*Decisions to be Binding*

- 21.1.9 *Each Decision taken in accordance with the provisions of these A Preference Share Terms shall be binding on all the Holders, and each Holder shall, where relevant, implement such Decision in accordance with its obligations under the Finance Documents.*

*Convening Meetings*

- 21.1.10 *The Preference Share Agent may, at any time (and shall, if requested to do so by any Holder), convene a meeting of the Holders as soon as reasonably practicable, provided that, unless otherwise agreed by all of the Holders, or where the proposed meeting relates to a Decision to be taken in relation to a Trigger Event or Potential Trigger Event (in which case each Holder shall be entitled to not less than 12 (twelve) hours' notice), each Holder shall be entitled to not less than 3 (three) Business Days' notice of any such proposed meeting.*

*Notification of Decisions*

- 21.1.11 *The Preference Share Agent shall, within 3 (three) Business Days (unless otherwise provided for), notify each Holder which was entitled to partake in each Decision, of the applicable Decision made under these A Preference Share Terms.*
- 21.1.12 *The Preference Share Agent may implement, or instruct any Holder or other relevant person to implement, in each case on behalf of any Holder, any Decision made in accordance with these A Preference Share Terms.*

*Variations to Voting Entitlements*

- 21.1.13 *If the Preference Share Agent does not receive a certificate from any Holder (a "**Non-Voting Holder**") specifying its vote or instructions in respect of a Decision by the close of business in South Africa on the Decision Date, the Preference Share Agent shall re-issue its request for instructions from the Holders to the Non-Voting Holder(s) (copied to each other Holder) and shall request that such Non-Voting Holder respond to such request for instructions within 1 (one) Business Day of the Decision Date (the "**Extension Period**"). In the event the Non-Voting Holder(s) fail to give their instructions within the Extension Period, then, for the purpose of calculating the aggregate voting entitlements in order to determine whether the matter in question has been approved, the Preference Share Agent shall disregard the number of Outstanding A Preference Shares of Non-Voting Holders for the purposes of determining the aggregate voting entitlements for the purpose of that Decision.*

## **21.2 Exercise of Remedies and Enforcement**

*Notice of Default*

- 21.2.1 *If (in the opinion of any Holder) a Trigger Event or Potential Trigger Event has occurred which is Continuing, that Holder may deliver a notice to the Preference Share Agent which:*
- 21.2.1.1 *identifies (and gives particulars of) that Trigger Event or Potential Trigger Event; and*
- 21.2.1.2 *requests the Preference Share Agent to seek instructions as to whether:*

21.2.1.2.1 *Acceleration action or any other Remedies (and if so, which Remedies) should be taken or exercised in respect of that Trigger Event or Potential Trigger Event; or*

21.2.1.2.2 *to request redemption of the Outstanding A Preference Shares.*

*Decisions as to Enforcement*

21.2.2 *If a Trigger Event has occurred and is Continuing, any Decision to take Acceleration action shall be taken by the Majority Holders.*

21.2.3 *Should the Majority Holders Decide to take Acceleration action or to require redemption of all the Outstanding A Preference Shares, the Holders and the Preference Share Agent shall proceed in accordance with the procedure set out in clause 21.2.4.*

*Enforcement Procedure*

21.2.4 *If, pursuant to clause 21.2, the Majority Holders Decide to take Acceleration action or exercise any Remedies, the Preference Share Agent shall:*

21.2.4.1 *issue an Acceleration Notice; and/or*

21.2.4.2 *exercise such Remedies as it is instructed to by the Majority Holders, including (if instructed) any of the Remedies contemplated by clauses 21.2.5 and 21.2.6;*

*and the other Holders shall be bound by such action of the Preference Share Agent.*

*Exercise of Remedies*

21.2.5 *If so instructed in accordance with clause 21.2.1, the Preference Share Agent shall exercise any or all the Remedies as instructed by the Majority Holders, including commencing any proceedings giving rise to an insolvency event in respect of the Issuer.*

21.2.6 *No Holder or any person on its behalf or appointed by it (other than the Preference Share Agent acting on the instructions of the Majority Holders) hereunder shall:*

21.2.6.1 *discharge, sue for or enforce any obligation under the Finance Document or any part thereof owed to it by legal proceedings, attachment, set-off, execution or otherwise; or*

21.2.6.2 *institute or commence any proceedings against the Issuer giving rise to an event contemplated in clause 12.16.*

### **21.3 Waivers**

21.3.1 *Subject to clauses 21.1.1 to 21.1.7, 21.3.3, 21.3.4 and 21.4, a Decision of the Majority Holders obtained in accordance with the procedure set out in clauses 21.1.1 to 21.1.7 shall be required for the waiver of any provision of a Finance Document.*

21.3.2 *The Preference Share Agent may affect, on behalf of any Holder, any waiver permitted by this clause 21.3.*

21.3.3 *Any waivers which the Preference Share Agent reasonably believes:*

21.3.3.1 *to be inconsequential, minor, administrative or operational; and*

21.3.3.2 *shall not have a material and adverse effect on the interests of the Holders,*

*may be Decided by the Preference Share Agent in its absolute discretion (subject to the consent therefor having been obtained from the other Holders in accordance with the terms hereof), provided that the Preference Share Agent notifies each other Holder in writing of such Decision within 10 (ten) Business Days of such Decision having been taken.*

21.3.4 *Notwithstanding the other provisions of these A Preference Share Terms, any waiver which would impose any new obligation or liability on, or change any existing obligation or liability of, any Holder may not be effected without the consent of all the Holders.*

21.3.5 *Any waiver made in accordance with the provisions of this clause 21.3 or otherwise in accordance with the provisions of these A Preference Share Terms, shall be binding on all the Holders.*

- 21.3.6 *The relevant Holder shall notify the Preference Share Agent as soon as practicable after the making of any waiver under these A Preference Share Terms pursuant to clause 21.3.3.*
- 21.3.7 *The Preference Share Agent shall promptly notify the Holders of any waiver made pursuant to this clause 21.3.*

#### **21.4 Unanimous Decisions**

- 21.4.1 *All Decisions in respect of the matters set out in this clause 21.4.1 require the unanimous instructions of all of the Holders. Any Decision in relation to any provision of a Finance Document which, if implemented, would:*
- 21.4.1.1 *give a consent in respect of “**Permitted Indebtedness**”, “**Permitted Guarantee**”, “**Permitted Loan**” or “**Permitted Security Interest**”;*
- 21.4.1.2 *change the scheduled date for the redemption of any A Preference Shares or payment of any dividend due by the Issuer;*
- 21.4.1.3 *increase or decrease any amount of any redemption amount, dividend, fees or commission payable to any Holder under any Finance Document;*
- 21.4.1.4 *change the method of calculation of redemption amounts, dividends, fees or commission payable to any Holder, or change the currency thereof;*
- 21.4.1.5 *change any existing obligation or liability or impose any new obligation or liability on any Holder towards the Issuer; or*
- 21.4.1.6 *change the proportion to which any Holder is entitled of any amount received or recovered in respect of its obligations under the Finance Documents.*

## **22. GENERAL**

- 22.1 *Notwithstanding any provisions to the contrary in these A Preference Share Terms, but subject to clause 16:*
- 22.1.1 *the number of authorised shares of the Issuer of any class of shares may not be increased or decreased, provided that the Issuer may issue further redeemable preference shares in the share capital of the Issuer with the prior consent of the Majority Holders;*
- 22.1.2 *the preferences, rights, limitations and other terms of any class of other shares may not be determined; and/or*
- 22.1.3 *no shares of the Issuer ranking in any manner (including as regards rights to dividends or redemption, or on a winding-up as regards return of capital) pari passu with the A Preference Shares shall be authorised, created or issued,*
- without the prior sanction by a decision of the Majority Holders or a resolution passed by the Majority Holders at a separate class meeting of the Holders held on written notice to the Holders.*
- 22.2 *Any provision of these A Preference Share Terms which contemplates performance or observance subsequent to any termination or expiration of the Preference Share Programme or the redemption of the A Preference Shares shall survive any such termination, expiration or redemption and continue in full force and effect and shall be enforceable by the Issuer or the Holders or their successors in title or assigns.*
- 22.3 *The Issuer shall pay all and any properly evidenced costs and expenses (including legal fees) incurred by the Holders in connection with:*
- 22.3.1 *any amendment, waiver or consent requested by the Issuer under the Finance Documents;*
- 22.3.2 *any other matter which is not of an ordinary administrative nature arising out of or in connection with any Finance Document; and*
- 22.3.3 *all other costs and expenses due under the Finance Documents.*
- 22.4 *The Issuer shall pay the amount of all costs and expenses (including legal fees on an attorney and own client scale) incurred by the Preference Share Agent and/or the Holders in connection with the enforcement of, or the preservation of any rights under any Finance Documents.*



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**FORM OF COMPLIANCE CERTIFICATE**

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To: [insert details of Preference Share Agent] (as Preference Share Agent)

Date: [ ]

Dear Sirs

**THE PREFERENCES, RIGHTS, LIMITATIONS, PRIVILEGES AND OTHER TERMS OF THE A PREFERENCE SHARES AS SET OUT IN CLAUSE 9.3 OF THE ISSUER'S CONSTITUTIONAL DOCUMENTS ("A Preference Share Terms"): COMPLIANCE CERTIFICATE**

1. We refer to the A Preference Share Terms.
2. This is a Compliance Certificate
3. Terms used in this Compliance Certificate have the same meaning as in the A Preference Share Terms.
4. This Compliance Certificate on the Measurement Date [ ] (the "**Test Date**"), and is delivered pursuant to clause 9.1 of the A Preference Share Terms.
5. We confirm that in respect of the Test Date:

Covenant

As Calculated

Debt to Equity Ratio

Interest Cover Ratio

Loan to Value Ratio

Preference Share to Value Ratio

Dividend Cover Ratio

6. We confirm that no Potential Trigger Event or Trigger Event is Continuing.

For and on behalf of

Tradehold Ltd

Name:  
Chief Executive Officer

Name:  
Financial Director

## **INITIAL PORTFOLIO**

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### **Moorgarth Property Investments Limited**

1. Main Street, Baillieston
2. Berwick-Upon-Tweed
3. Dalrympal Street, Girvan
4. High Street, Irvine
5. High Street, Johnstone
6. Wilmingtone Grove, Leeds
7. Broderick Buildings, Cookridge Street, Leeds

### **Moorgarth Properties Limited**

8. Constantine Street, Oldham
9. Southfield, Harrogate

### **Moorgarth Leisure Limited**

10. Clumber Park Hotel

### **Moorgarth Properties (Luxembourg) S.à r.l**

11. Bitterne Precinct, 426-444 Bitterne Road, Bitterne, Southampton
12. High Street, Bromsgrove
13. Bath Road, Felling
14. Ogden Road Industrial Park, Ogden Road, Doncaster
15. Westbourne Centre, Barrhead
16. 128 Wigmore Street, London
17. Boundary Road, Prestwick
18. J4 Technology Park, Skelmersdale
19. Rutherglen Exchange Shopping Centre, South Lanarkshire

### **St Catherines Perth (1) S.à r.l**

20. St Catherine's Retail Park South, Perth

### **Nordic Lime Street S.à r.l**

21. Lime Street

### **London Office S.à r.l**

22. Gray's Inn Road

### **PROPOSED AMENDMENT NO 6 – CLAUSE 10.1**

The Board proposes that clause 10.1 of the MOI be amended to read as follows (amendments are indicated by strikethrough or underlining, as applicable):

- '10.1 Notwithstanding the provisions of section 36(3) of the Act, the Board shall not have the power to:*
- 10.1.1 increase or decrease the number of authorised Securities of any class of Securities;*
  - 10.1.2 reclassify any classified Securities that have been authorised but not issued;*
  - 10.1.3 classify any unclassified Securities that have been authorised but are not issued,*
- which powers shall only be capable of being exercised by the Shareholders, as contemplated in clause 10.3, provided that the Board shall have the power to determine the preferences, rights, limitations or other terms of any class of shares contemplated in section 36(1)(d) of the Act subject to the JSE Listings Requirements'.*

### **PROPOSED AMENDMENT NO 7 – CLAUSE 11.3**

The Board proposes to amend clause 11.3 of the MOI by inserting the phrase *'or the A Preference Shares or the Unspecified Preference Shares'* immediately after the phrase *'Preference Shares'* in the last sentence in the hanging clause below clause 11.3.2.

### **PROPOSED AMENDMENT NO 8 – CLAUSE 11**

The Board proposes that clause 11 of the MOI be amended by the insertion of a new clause 11.7 which reads as follows:

- '11.7 Any authority given by Shareholders to the Board to issue any shares may be given subject to such conditions, limitations or restrictions as may be approved in terms of the relevant resolution authorising such issue'.*

### **PROPOSED AMENDMENT NO 9 – CLAUSE 45.2**

The Board proposes to amend clause 45.2 of the MOI by inserting the phrase *' , and provided further that such Distribution is permitted under clause 9.3'* at the end of the clause.

### **PROPOSED AMENDMENT NO 10 – SCHEDULE 1**

The Board proposes to amend Schedule 1 of the MOI to reflect the changes in the authorised share capital of the Company, as follows:

#### ***'CLASSES OF SHARES***

*The numbers and classes of shares that the Company is authorised to issue are as follows:*

- 1. 210,000,000 Ordinary Shares, having a par value of 1c (one cent each), and having the rights and limitations set out in the MOI;*
- 2. 89,250,000 non-convertible, non-participating, non-transferable redeemable preference shares, having a par value of 1c (one cent each), and having the preferences, rights, limitations and other terms set out in the clause 9 and elsewhere in the MOI;*
- 3. 65,000,000 A Preference Shares of no par value, having the preferences, rights, limitations and other terms set out in clause 9.3;*
- 4. 10,000,000 B Unspecified Preference Shares of no par value, having the preferences, rights, limitations and other terms to be determined by the Board upon issue thereof, as contemplated in section 36(1)(d) of the Act;*
- 5. 10,000,000 C Unspecified Preference Shares of no par value, having the preferences, rights, limitations and other terms to be determined by the Board upon issue thereof, as contemplated in section 36(1)(d) of the Act;*

6. *10,000,000 D Unspecified Preference Shares of no par value, having the preferences, rights, limitations and other terms to be determined by the Board upon issue thereof, as contemplated in section 36(1)(d) of the Act; and*
7. *10,000,000 E Unspecified Preference Shares of no par value, having the preferences, rights, limitations and other terms to be determined by the Board upon issue thereof, as contemplated in section 36(1)(d) of the Act.'*



## TRADEHOLD LIMITED

(Incorporated in the Republic of South Africa)  
Registration number 1970/009054/06  
JSE share code: TDH ISIN: ZAE000152658  
("Tradehold" or "the Company")

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### NOTICE OF COMBINED GENERAL MEETING ("CGM") OF TRADEHOLD SHAREHOLDERS

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Notice is hereby given to all the Shareholders, Directors and auditors of Tradehold Limited (the "**Company**") of a Combined General Meeting of the Company to be held at its Registered Office at 10:00 on 22 December 2014 to consider and, if deemed fit, approve the resolutions set out below, with or without modification.

The definitions commencing on page 5 of the Circular to which this Notice of CGM is attached apply *mutatis mutandis* to this Notice of CGM.

#### 1. SPECIAL RESOLUTION NUMBER 1

**RESOLVED THAT** the authorised share capital of the Company be and is hereby increased by the creation of 65,000,000 (sixty five million) A Preference Shares, of no par value having the preferences, rights, limitations and other terms as set out in the A Preference Share Terms, so that after such increase the authorised share capital of the Company shall comprise:

- 210,000,000 Ordinary Shares;
- 89,250,000 N Preference Shares;
- 65,000,000 A Preference Shares.

*This special resolution requires the approval of at least 75% of the voting rights of Shareholders exercised on the resolution, in accordance with section 65(9) of the Companies Act and the MOI. Each Ordinary Shareholder and N Preference Shareholder shall be entitled to one vote for every Tradehold Share held. In addition, in terms of the MOI, the resolution requires the written consent of the holder of the N Preference Share.*

#### 2. SPECIAL RESOLUTION NUMBER 2

**RESOLVED THAT** the authorised share capital of the Company be and is hereby increased by the creation of 10,000,000 B Unspecified Preference Shares, 10,000,000 C Unspecified Preference Shares, 10,000,000 D Unspecified Preference Shares and 10,000,000 E Unspecified Preference Shares, each being a class of shares contemplated in section 36(1)(d) of the Companies Act, 2008, so that after such increase the authorised share capital of the Company shall comprise:

- 210,000,000 Ordinary Shares;
- 89,250,000 N Preference Shares;
- 65,000,000 A Preference Shares;
- 10,000,000 B Unspecified Preference Shares;
- 10,000,000 C Unspecified Preference Shares;
- 10,000,000 D Unspecified Preference Shares;
- 10,000,000 E Unspecified Preference Shares.

*This special resolution requires the approval of at least 75% of the voting rights of Shareholders exercised on the resolution, in accordance with section 65(9) of the Companies Act and the MOI. Each Ordinary Shareholder and N Preference Shareholder shall be entitled to one vote for every Tradehold Share held. In addition, in terms of the MOI, the resolution requires the written consent of the holder of the N Preference Share.*

### 3. **SPECIAL RESOLUTION NUMBER 3**

**RESOLVED THAT**, subject to special resolutions number 1 and 2 being adopted by the requisite majority of Tradehold Shareholders, the Memorandum of Incorporation of the Company be and is hereby amended in accordance with Annexure A of the Circular to which this Notice of CGM is attached.

*This special resolution requires the approval of at least 75% of the voting rights of Shareholders exercised on the resolution, in accordance with section 65(9) of the Companies Act and the MOI. Each Ordinary Shareholder and N Preference Shareholder shall be entitled to one vote for every Tradehold Share held. In addition, in terms of the MOI, the resolution requires the written consent of the holder of the N Preference Shares.*

### 4. **ORDINARY RESOLUTION NUMBER 1**

**RESOLVED THAT** in accordance with the MOI, the authorised but unissued A Preference Share capital of the Company be and are hereby placed under the control of the Directors, who shall be authorised to issue such unissued A Preference Shares on such terms and conditions as they may in their discretion deem fit, but subject to the following limitations:

- the authority will be valid for from the date of the CGM until the next annual general meeting of the Company;
- the maximum number of A Preference Shares that may be issued is 65,000,000;
- the maximum amount to be raised by the issue of A Preference Shares is R650,000,000,

there are no further limitations on the authority (including on the price at which the A Preference Shares may be issued).

### 5. **ORDINARY RESOLUTION NUMBER 2**

**RESOLVED THAT**, in accordance with the MOI, the authorised but unissued Unspecified Preferences Shares in the capital of the Company be and are hereby placed under the control of the Directors, who shall be authorised to issue such unissued Unspecified Preference Shares on such terms and conditions as they may in their discretion deem fit, but subject to the following limitations:

- the authority will be valid for from the date of the Special General Meeting until the next annual general meeting of the Company;
- the maximum amount to be raised by the issue of Unspecified Preference Shares is R1,000,000,000;
- the Unspecified Preference Shares may only be issued if the Board is of the opinion, having taken into account prevailing conditions in the South African market for redeemable preference shares, that the commercial and technical terms and features of the shares are in all material respects arms' length and in line with current market norms (which for clarity will include, without limitation, that the shares will bear a market-related coupon, that they will have a fixed date of maturity, that they will rank in priority to the Ordinary Shares and the N Preference Shares in respect of distributions and on a winding up, and that they will have voting rights only in limited circumstances);
- if any Unspecified Preference Shares are issued to a related party (as defined in paragraph 10.1 of the Listings Requirements of the JSE), the issue to such related party shall be subject to a fairness opinion from an independent expert acceptable to the JSE stating that the issue is fair insofar as the Ordinary Shareholders are concerned; and
- the Unspecified Preference Shares will be non-participating redeemable preference shares, i.e. the rate of dividends and returns payable in respect of the Unspecified Preference Shares will not be a function of the profitability of the Company,

there being no further limitations on the Board's authority (including on the price at which the Unspecified Preference Shares may be issued).

### 6. **SPECIAL RESOLUTION NUMBER 4**

**RESOLVED THAT**, in accordance with section 41(1)(b) of the Companies Act, the Company be and is hereby authorised to issue 532,456 (five hundred and thirty two thousand four hundred and fifty six) Ordinary Shares to Vaughan pursuant to the Vaughan Transaction.

*The percentage of voting rights that will be required for this special resolution to be adopted is at least 75% (seventy five percent) of the votes exercised on the resolution excluding the votes of Vaughan and his associates.*

#### **7. ORDINARY RESOLUTION NUMBER 3**

**RESOLVED THAT** any Director of the Company be and is hereby authorised to sign all such documents and any amendments thereto, take all such steps and do all such other things as may be necessary to give effect to and/or implement the resolutions contained herein.

*Ordinary Resolution Number 3 requires the approval by more than 50% of the voting rights of Tradehold Shareholders exercised on the resolution, in accordance with section 65(7) of the Companies Act and the MOI. Each Ordinary Shareholder and N Preference Shareholder shall be entitled to one vote for every Tradehold Share held.*

#### **ELECTRONIC PARTICIPATION**

Should any Tradehold Shareholder wish to participate in the Combined General Meeting by way of electronic participation, that Tradehold Shareholder should make application in writing (including details as to how the Shareholder or its representative can be contacted) to so participate to the Transfer Secretaries at the address below, to be received by the Transfer Secretaries at least 5 (five) Business Days prior to the Combined General Meeting in order for the Transfer Secretaries to arrange for the Tradehold Shareholder (and its representative) to provide reasonably satisfactory identification to the Transfer Secretaries for the purposes of section 63(1) of the Companies Act and for the Transfer Secretaries to provide the Tradehold Shareholder (or its representative) with details as to how to access any electronic participation to be provided. The Company reserves the right to elect not to provide for electronic participation at the Combined General Meeting in the event that it determines that it is not practical to do so. The costs of accessing any means of electronic participation provided by the Company will be borne by the Tradehold Shareholder so accessing the electronic participation. Tradehold Shareholders are advised that participation in the Combined General Meeting by way of electronic participation will not entitle a Tradehold Shareholder to vote. Should a Shareholder wish to vote at the Combined General Meeting, he/she may do so by attending and voting at the Combined General Meeting either in person or by proxy.

#### **NOTES**

Any Tradehold Shareholder may, in writing, appoint a proxy, who need not be a Tradehold Shareholder, to represent him/her at any general meeting. Any company, being a Tradehold Shareholder, may execute a form of proxy under the hand of a duly authorised officer. The instrument appointing a proxy together with evidence of the authority of the person by whom the proxy is signed (except in the case of a proxy signed by the Shareholder), shall be deposited at the Transfer Secretaries by no later than the time for holding of the meeting or adjourned meeting (as the case may be), but preferably 5 (five) business days before the time for the holding of the meeting or adjourned meeting (as the case may be) at which the person named in such instrument proposes to vote, in order that the Transfer Secretaries may be able to timeously send the proxy form on your behalf to the Registered Office. No instrument appointing a proxy shall be valid after the expiration of 12 months from the date of its execution.

A form of proxy is enclosed with this notice, the completion of which will not preclude a Tradehold Shareholder from attending and voting at the CGM in person to the exclusion of any proxy appointed. Ordinary resolutions may be passed at the CGM by a simple majority representing more than 50% of the voting rights exercised on the resolutions. Special resolutions require more than 75% of the voting rights exercised on the resolution. The quorum requirement in relation to both ordinary resolutions and special resolutions is at least three Tradehold Shareholders holding Tradehold Ordinary Shares granting the right to vote in the Company who are present or represented at the CGM, and there are sufficient persons present to exercise in aggregate at least 25% of all the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting.

By order of the Board

#### **TRADEHOLD LIMITED**

**FM ver Loren Van Themaat**

*Company Secretary*

24 November 2014







**TRADEHOLD LIMITED**

(Incorporated in the Republic of South Africa)  
 Registration number 1970/009054/06  
 JSE share code: TDH ISIN: ZAE000152658  
 (“Tradehold” or “the Company”)

**FORM OF PROXY FOR USE BY CERTIFICATED SHAREHOLDERS AND “OWN-NAME” DEMATERIALISED SHAREHOLDERS ONLY**

For use only:

- by holders of Certificated Shares;
- holders of Dematerialised Shares in the Company held through a Participant or broker and who have selected “own-name” registration; and
- at the Combined General Meeting of the Company to be held at 10:00 on 22 December 2014 at the Company’s Registered Office, or at any adjournment thereof.

If you are a Tradehold Shareholder entitled to attend and vote at the Combined General Meeting you can appoint a proxy or proxies to attend, vote and speak in your stead. A proxy need not be a Shareholder.

If you are a Tradehold Shareholder and have Dematerialised your share certificates through a Participant (and have not selected “own-name” registration in the sub-register maintained by a Participant), do not complete this form of proxy but instruct your Participant to issue you with the necessary letter of representation to attend the Combined General Meeting, or if you do not wish to attend, provide your Participant with your voting instructions in terms of your custody agreement entered into with them.

I/We \_\_\_\_\_

(full names in BLOCK LETTERS)

of (address) \_\_\_\_\_

Telephone number \_\_\_\_\_

Cellphone number \_\_\_\_\_

e-mail address \_\_\_\_\_

being the holder(s) of  **Ordinary Shares/N Preference Shares in the Company**, hereby appoint (see note ii):

1. \_\_\_\_\_ or failing him/her, \_\_\_\_\_
2. \_\_\_\_\_ or failing him/her, \_\_\_\_\_
3. the Chairman of the Company or failing him the Chairman of the Combined General Meeting,

as my/our proxy to attend, speak, and on a poll to vote or abstain from voting on my/our behalf at the Combined General Meeting which will be held for the purpose of considering and, if deemed fit, passing, with or without modification, the special resolution to be proposed thereat and at any adjournment thereof.

	In favour	Against	Abstain
<b>SPECIAL RESOLUTION NUMBER 1</b> Creation of 65,000,000 A Preference Shares			
<b>SPECIAL RESOLUTION NUMBER 2</b> Creation of 40,000,000 Unspecified Preference Shares			
<b>SPECIAL RESOLUTION NUMBER 3</b> Amendments to the Memorandum of Incorporation			
<b>ORDINARY RESOLUTION NUMBER 1</b> Authority to Directors to issue A Preference Shares			
<b>ORDINARY RESOLUTION NUMBER 2</b> Authority to Directors to issue Unspecified Preference Shares			
<b>SPECIAL RESOLUTION NUMBER 4</b> Authority to issue the Vaughan Shares to Vaughan pursuant to the Vaughan Transaction			
<b>ORDINARY RESOLUTION NUMBER 3</b> General authority to Directors to do all such things, sign all such documents and take all such actions as may be necessary for or incidental to the implementation of above resolutions			

**Note:** Please indicate with an "x" in the spaces above how you wish your votes to be cast.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2014

Signature \_\_\_\_\_

Assisted by (if applicable) \_\_\_\_\_

Please read notes below.

- (i) The following dates are applicable to all Shareholders. This notice is being mailed to the Shareholders on the Register of Shareholders as at 14 November 2014. Shareholders registered on the Register of Shareholders as at 12 December 2014 ("**the Record Date**") shall have the right to participate and vote at the meeting. Accordingly, the last day to trade for Shareholders in order to be able to participate and vote at the meeting is 5 December 2014. Any change to an entry on the Register after the Record Date shall be disregarded in determining the right of any person to attend and vote at the Combined General Meeting.
- (ii) A Shareholder entitled to vote may appoint a proxy to attend and vote instead of him/her using the attached form of proxy; the appointed proxy need not be a Shareholder. To be valid the form of proxy must be signed and must reach the Transfer Secretaries, Computershare Investor Services (Pty) Ltd at Ground Floor, 70 Marshall Street, Johannesburg, 2001 or PO Box 61051, Marshalltown, 2107, by not later than 2 (two) business days before the time for the holding of the meeting, in order that the Transfer Secretaries may be able to timeously send the form of proxy on your behalf to the Registered Office.
- (iii) To participate and to vote at the meeting, a Shareholder or his/her proxy is to present his/her identity document or other means of identification. In the case of a Shareholder being a body corporate, association of persons, foundation or other body of person, a representative thereof will only be eligible to attend and be admitted to, the meeting, and to vote there at, if a form of proxy has been (a) duly executed in his/her favour by the competent organ of the entity which he/she represents, and (b) submitted to the Company Secretary in accordance with the procedures set out under (ii) above.
- (iv) In the case of Shares held jointly by several persons, the person who had been nominated by the joint holders to be the registered holder of such Shares shall be entitled to attend and vote at the meeting. In the event that the joint holders failed to nominate such person, the first named joint holder on the Register of Shareholders shall be entitled to attend and vote at the meeting.
- (v) A Shareholder who is a minor may be represented at the meeting by his/her legal guardian who will be required to present his/her identity document.
- (vi) Admission to the meeting will commence one hour before the advertised and appointed time.
- (vii) After the meeting has proceeded to business, voting documents will continue to be issued until such time as the meeting proceeds to vote on the first resolution of the agenda whether by show of hands or by poll. Thereafter no further voting documents will be issued and admittance to the meeting will be discontinued.
- (viii) Shareholders' rights:

Shareholders rights regarding proxies in terms of section 58 of the Companies Act are as follows:

- (1) At any time, a shareholder of a company may appoint any individual, including an individual who is not a shareholder of that company, as a proxy to:
  - (a) participate in, and speak and vote at, a shareholders meeting on behalf of the shareholder; or
  - (b) give or withhold written consent on behalf of the shareholder to a decision contemplated in section 60.
- (2) A proxy appointment:
  - (a) must be in writing, dated and signed by the shareholder; and
  - (b) remains valid for:
    - (i) one year after the date on which it was signed; or
    - (ii) any longer or shorter period expressly set out in the appointment, unless it is revoked in a manner contemplated in subsection (4)(c), or expires earlier as contemplated in subsection (8)(d).
- (3) Except to the extent that the Memorandum of Incorporation of a company provides otherwise:
  - (a) a shareholder of that company may appoint two or more persons concurrently as proxies, and may appoint more than one proxy to exercise voting rights attached to different securities held by the shareholder;
  - (b) a proxy may delegate the proxy's authority to act on behalf of the shareholder to another person, subject to any restriction set out in the instrument appointing the proxy; and
  - (c) a copy of the instrument appointing a proxy must be delivered to the company, or to any other person on behalf of the company, before the proxy exercises any rights of the shareholder at a shareholders meeting.
- (4) Irrespective of the form of instrument used to appoint a proxy:
  - (a) the appointment is suspended at any time and to the extent that the shareholder chooses to act directly and in person in the exercise of any rights as a shareholder;
  - (b) the appointment is revocable unless the proxy appointment expressly states otherwise; and
  - (c) if the appointment is revocable, a shareholder may revoke the proxy appointment by:
    - (i) cancelling it in writing, or making a later inconsistent appointment of a proxy; and
    - (ii) delivering a copy of the revocation instrument to the proxy, and to the company.
- (5) The revocation of a proxy appointment constitutes a complete and final cancellation of the proxy's authority to act on behalf of the shareholder as of the later of:
  - (a) the date stated in the revocation instrument, if any; or
  - (b) the date on which the revocation instrument was delivered as required in subsection (4)(c)(ii).
- (6) A proxy is entitled to exercise, or abstain from exercising, any voting right of the shareholder without direction, except to the extent that the instrument appointing the proxy otherwise provides.



## TRADEHOLD LIMITED

(Incorporated in the Republic of South Africa)  
Registration number 1970/009054/06  
JSE share code: TDH ISIN: ZAE000152658  
("Tradehold" or "the Company")

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### NOTICE OF SPECIAL GENERAL MEETING ("SGM") OF TRADEHOLD N PREFERENCE SHAREHOLDERS

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Notice is hereby given to all the Shareholders, Directors and auditors of Tradehold Limited (the "**Company**") of a Special General Meeting of the Company to be held at its Registered Office at 10:30 on 22 December 2014 to consider and, if deemed fit, approve the resolutions set out below.

The definitions commencing on page 5 of the Circular to which this Notice of SGM is attached apply *mutatis mutandis* to this Notice of SGM.

#### 1. SPECIAL RESOLUTION NUMBER 1

**RESOLVED THAT** the authorised share capital of the Company be and is hereby increased by the creation of 65,000,000 (sixty five million) A Preference Shares, of no par value being a class of shares contemplated in section 36(1)(d) of the Companies Act, 2008, having the preferences, rights, limitations and other terms as set out in the Preference Share Terms, so that after such increase the authorised share capital of the Company shall comprise:

- 210,000,000 Ordinary Shares;
- 89,250,000 N Preference Shares;
- 65,000,000 A Preference Shares.

*This special resolution requires the approval of at least 75% of the voting rights of N Preference Shareholders exercised on the resolution, in accordance with section 65(9) of the Companies Act and the MOI. Each N Preference Shareholder shall be entitled to one vote for every N Preference Share held.*

#### 2. SPECIAL RESOLUTION NUMBER 2

**RESOLVED THAT** the authorised share capital of the Company be and is hereby increased by the creation of 10,000,000 B Unspecified Preference Shares, 10,000,000 C Unspecified Preference Shares, 10,000,000 D Unspecified Preference Shares and 10,000,000 E Unspecified Preference Shares, each being a class of shares contemplated in section 36(1)(d) of the Companies Act, 2008, so that after such increase the authorised share capital of the Company shall comprise:

- 210,000,000 Ordinary Shares;
- 89,250,000 N Preference Shares;
- 65,000,000 A Preference Shares;
- 10,000,000 B Unspecified Preference Shares;
- 10,000,000 C Unspecified Preference Shares;
- 10,000,000 D Unspecified Preference Shares; and
- 10,000,000 E Unspecified Preference Shares.

*This special resolution requires the approval of at least 75% of the voting rights of N Preference Shareholders exercised on the resolution, in accordance with section 65(9) of the Companies Act and the MOI. Each N Preference Shareholder shall be entitled to one vote for every N Preference Share held.*

### 3. **SPECIAL RESOLUTION NUMBER 3**

**RESOLVED THAT**, subject to special resolutions number 1 and 2 being adopted by the requisite majority of Tradehold N Preference Shareholders, the Memorandum of Incorporation of the Company be and is hereby amended in accordance with Annexure A of the Circular to which this Notice of SGM is attached.

*This special resolution requires the approval of at least 75% of the voting rights of N Preference Shareholders exercised on the resolution, in accordance with section 65(9) of the Companies Act and the MOI. Each N Preference Shareholder shall be entitled to one vote for every N Preference Share held.*

### 4. **ORDINARY RESOLUTION NUMBER 1**

**RESOLVED THAT** any Director of the Company be and is hereby authorised to sign all such documents and any amendments thereto, take all such steps and do all such other things as may be necessary to give effect to and/or implement the resolutions contained herein.

*Ordinary Resolution Number 1 requires the approval by more than 50% of the voting rights of N Preference Shareholders exercised on the resolution, in accordance with section 65(7) of the Companies Act and the MOI. Each N Preference Shareholder shall be entitled to one vote for every N Preference Share held.*

## **ELECTRONIC PARTICIPATION**

Should any N Preference Shareholder wish to participate in the Special General Meeting by way of electronic participation, that N Preference Shareholder should make application in writing (including details as to how the Shareholder or its representative can be contacted) to so participate to the Transfer Secretaries at the address below, to be received by the Transfer Secretaries at least 5 (five) Business Days prior to the Special General Meeting in order for the Transfer Secretaries to arrange for the N Preference Shareholder (and its representative) to provide reasonably satisfactory identification to the Transfer Secretaries for the purposes of section 63(1) of the Companies Act and for the Transfer Secretaries to provide the N Preference Shareholder (or its representative) with details as to how to access any electronic participation to be provided. The Company reserves the right to elect not to provide for electronic participation at the Special General Meeting in the event that it determines that it is not practical to do so. The costs of accessing any means of electronic participation provided by the Company will be borne by the N Preference Shareholder so accessing the electronic participation. N Preference Shareholders are advised that participation in the Special General Meeting by way of electronic participation will not entitle a N Preference Shareholder to vote. Should a N Preference Shareholder wish to vote at the Special General Meeting, he/she may do so by attending and voting at the Special General Meeting either in person or by proxy.

### **NOTES**

Any N Preference Shareholder may, in writing, appoint a proxy, who need not be a N Preference Shareholder, to represent him/her at any general meeting. Any company, being a N Preference Shareholder, may execute a form of proxy under the hand of a duly authorised officer. The instrument appointing a proxy together with evidence of the authority of the person by whom the proxy is signed (except in the case of a proxy signed by the N Preference Shareholder), shall be deposited at the Transfer Secretaries by no later than the time for holding of the meeting or adjourned meeting (as the case may be), but preferably 5 (five) business days before the time for the holding of the meeting or adjourned meeting (as the case may be) at which the person named in such instrument proposes to vote, in order that the Transfer Secretaries may be able to timeously send the form of proxy on your behalf to the Registered Office. No instrument appointing a proxy shall be valid after the expiration of 12 months from the date of its execution.

A form of proxy is enclosed with this notice, the completion of which will not preclude a N Preference Shareholder from attending and voting at the SGM in person to the exclusion of any proxy appointed. Ordinary resolutions may be passed at the SGM by a simple majority representing more than 50% of the voting rights exercised on the resolutions. Special resolutions require more than 75% of the voting rights exercised on the resolution. The quorum requirement in relation to both ordinary resolutions and special resolutions at the Special General Meeting is sufficient persons present to exercise in aggregate at least 25% of all the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting.

By order of the Board

## **TRADEHOLD LIMITED**

**FM ver Loren Van Themaat**  
*Company Secretary*

24 November 2014



**TRADEHOLD LIMITED**

(Incorporated in the Republic of South Africa)  
 Registration number 1970/009054/06  
 JSE share code: TDH ISIN: ZAE000152658  
 ("Tradehold" or "the Company")

**FORM OF PROXY FOR USE BY N PREFERENCE SHAREHOLDERS ONLY**

For use only:

- by holders of N Preference Shares; and
- at the Special General Meeting of the Company to be held at 10:30 on 22 December 2014 at the Company's Registered Office, or at any adjournment thereof.

If you are an N Preference Shareholder entitled to attend and vote at the Special General Meeting you can appoint a proxy or proxies to attend, vote and speak in your stead. A proxy need not be a Shareholder.

If you are a N Preference Shareholder and have Dematerialised your share certificates through a Participant (and have not selected "own-name" registration in the sub-register maintained by a Participant), do not complete this form of proxy but instruct your Participant to issue you with the necessary letter of representation to attend the Special General Meeting, or if you do not wish to attend, provide your Participant with your voting instructions in terms of your custody agreement entered into with them.

I/We

(full names in BLOCK LETTERS)

of (address)

Telephone number

Cellphone number

e-mail address

being the holder(s) of  **N Preference Shares in the Company**, hereby appoint (see note ii):

4. \_\_\_\_\_ or failing him/her,
5. \_\_\_\_\_ or failing him/her,
6. the Chairman of the Company or failing him the Chairman of the Special General Meeting,

as my/our proxy to attend, speak, and on a poll to vote or abstain from voting on my/our behalf at the Special General Meeting which will be held for the purpose of considering and, if deemed fit, passing, with or without modification, the special resolution to be proposed thereat and at any adjournment thereof.

	In favour	Against	Abstain
<b>SPECIAL RESOLUTION NUMBER 1</b> Creation of 65,000,000 A Preference Shares			
<b>SPECIAL RESOLUTION NUMBER 2</b> Creation of 40,000,000 Unspecified Redeemable Preference Shares			
<b>SPECIAL RESOLUTION NUMBER 3</b> Amendments to the Memorandum of Incorporation			
<b>ORDINARY RESOLUTION NUMBER 1</b> General authority to Directors to do all such things, sign all such documents and take all such actions as may be necessary for or incidental to the implementation of above resolutions			

**Note:** Please indicate with an “x” in the spaces above how you wish your votes to be cast.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2014

Signature \_\_\_\_\_

Assisted by (if applicable) \_\_\_\_\_

Please read notes below.

- (i) The following dates are applicable to all Shareholders. This notice is being mailed to the Shareholders on the Register of Shareholders as at 14 November 2014. Shareholders registered on the Register of Shareholders as at 12 December 2014 (“**the Record Date**”) shall have the right to participate and vote at the meeting. Accordingly, the last day to trade for Shareholders in order to be able to participate and vote at the meeting is 5 December 2014. Any change to an entry on the Register after the Record Date shall be disregarded in determining the right of any person to attend and vote at the Special General Meeting.
- (ii) A Shareholder entitled to vote may appoint a proxy to attend and vote instead of him/her using the attached form of proxy; the appointed proxy need not be a Shareholder. To be valid the form of proxy must be signed and must reach the Transfer Secretaries, Computershare Investor Services (Pty) Ltd at Ground Floor, 70 Marshall Street, Johannesburg, 2001 or PO Box 61051, Marshalltown, 2107, by not later than 2 (two) business days before the time for the holding of the meeting, in order that the Transfer Secretaries may be able to timeously send the form of proxy on your behalf to the Registered Office.
- (iii) To participate and to vote at the meeting, a Shareholder or his/her proxy is to present his/her identity document or other means of identification. In the case of a Shareholder being a body corporate, association of persons, foundation or other body of person, a representative thereof will only be eligible to attend and be admitted to, the meeting, and to vote there at, if a form of proxy has been (a) duly executed in his/her favour by the competent organ of the entity which he/she represents, and (b) submitted to the Company Secretary in accordance with the procedures set out under (ii) above.
- (iv) In the case of Shares held jointly by several persons, the person who had been nominated by the joint holders to be the registered holder of such Shares shall be entitled to attend and vote at the meeting. In the event that the joint holders failed to nominate such person, the first named joint holder on the Register of Shareholders shall be entitled to attend and vote at the meeting.
- (v) A Shareholder who is a minor may be represented at the meeting by his/her legal guardian who will be required to present his/her identity document.
- (vi) Admission to the meeting will commence one hour before the advertised and appointed time.
- (vii) After the meeting has proceeded to business, voting documents will continue to be issued until such time as the meeting proceeds to vote on the first resolution of the agenda whether by show of hands or by poll. Thereafter no further voting documents will be issued and admittance to the meeting will be discontinued.
- (viii) Shareholders’ rights:

Shareholders rights regarding proxies in terms of section 58 of the Companies Act are as follows:

- (1) At any time, a shareholder of a company may appoint any individual, including an individual who is not a shareholder of that company, as a proxy to:
  - (a) participate in, and speak and vote at, a shareholders meeting on behalf of the shareholder; or
  - (b) give or withhold written consent on behalf of the shareholder to a decision contemplated in section 60.
- (2) A proxy appointment:
  - (a) must be in writing, dated and signed by the shareholder; and
  - (b) remains valid for:
    - (i) one year after the date on which it was signed; or
    - (ii) any longer or shorter period expressly set out in the appointment, unless it is revoked in a manner contemplated in subsection (4)(c), or expires earlier as contemplated in subsection (8)(d).
- (3) Except to the extent that the Memorandum of Incorporation of a company provides otherwise:
  - (a) a shareholder of that company may appoint two or more persons concurrently as proxies, and may appoint more than one proxy to exercise voting rights attached to different securities held by the shareholder;
  - (b) a proxy may delegate the proxy’s authority to act on behalf of the shareholder to another person, subject to any restriction set out in the instrument appointing the proxy; and
  - (c) a copy of the instrument appointing a proxy must be delivered to the company, or to any other person on behalf of the company, before the proxy exercises any rights of the shareholder at a shareholders meeting.
- (4) Irrespective of the form of instrument used to appoint a proxy:
  - (a) the appointment is suspended at any time and to the extent that the shareholder chooses to act directly and in person in the exercise of any rights as a shareholder;
  - (b) the appointment is revocable unless the proxy appointment expressly states otherwise; and
  - (c) if the appointment is revocable, a shareholder may revoke the proxy appointment by:
    - (i) cancelling it in writing, or making a later inconsistent appointment of a proxy; and
    - (ii) delivering a copy of the revocation instrument to the proxy, and to the company.
- (5) The revocation of a proxy appointment constitutes a complete and final cancellation of the proxy’s authority to act on behalf of the shareholder as of the later of:
  - (a) the date stated in the revocation instrument, if any; or
  - (b) the date on which the revocation instrument was delivered as required in subsection (4)(c)(ii).
- (6) A proxy is entitled to exercise, or abstain from exercising, any voting right of the shareholder without direction, except to the extent that the instrument appointing the proxy otherwise provides.