

B PREFERENCE SHARE TERMS

The following are the terms and conditions (the “*Terms and Conditions*”) of the Preference Shares to be issued by the Issuer.

Any reference in these Terms and Conditions to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation at the Programme Date, as amended or substituted from time to time.

1. DEFINITIONS AND INTERPRETATION

In these Terms and Conditions, unless inconsistent with the context or separately defined in the Applicable Pricing Supplement, the following expressions shall have the following meanings:

“ A Preference Shares”	the class “A” preference shares issued by the Issuer which have the rights and privileges set out in the “A” Preference Share Terms;
“ A Preference Share Terms”	the rights and privileges set out in clause 9.3 of the Issuer MOI;
“ Account Bank ”	RMB or any replacement Account Bank approved in writing by the Preference Share Agent;
“ Accounting Principles ”	generally accepted accounting principles in South Africa, including IFRS;
“ Accumulated Preference Dividends ”	has the meaning specified in Condition 7.6 (<i>Accumulated Preference Dividends</i>);
“ Additional Dividend Date ”	has the meaning specified in Condition 10.1.1.1;
“ Additional Preference Dividend ”	has the meaning specified in Condition 10.1.1.1;
“ Adjustment Date ”	has the meaning specified in Condition 10.1.1.2;
“ Adjustment Event ”	has the meaning specified in Condition 10.2 (<i>Adjustment Events</i>);
“ Adjustment Notice ”	has the meaning specified in condition 10.1.1;
“ Affected Beneficiary ”	has the meaning specified in Condition 10.1.1;
“ Affiliate ”	in relation to any Person, a Subsidiary of that Person or a Holding Company of that Person or any other Subsidiary of that Holding Company;
“ Agency Matters ”	has the meaning specified in Condition 39 (Role of the Preference Share Agent);
“ Agreement for Lease ”	an agreement to grant an Occupational Lease for all or part of a Property;
“ Annual Financial Statements ”	the financial statements for a Financial Year delivered pursuant to Condition 33.1 (Financial Statements);
“ Applicable Pricing Supplement ”	the pricing supplement relating to the Preference Shares, which is attached as an Annex to these Terms and Conditions and headed “ <i>Applicable Pricing Supplement</i> ”;
“ Applicable Law ”	any law (including statutory, common or customary law), statute, constitution, decree, treaty, regulation, judgment, directive, by- law, order, other legislative measure, requirement, request or guideline (whether or not having the force or 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 or regulatory or self-regulatory or similar body or authority or court;
“Applicable Procedures”	the CSD Procedures, the rules, listing requirements and operating procedures from time to time of the Participants, JSE and/or any Financial Exchange, as the case may be;
“Applicable Redemption Amount”	the Final Redemption Amount, the Early Redemption Amount or such other amount in the nature of a redemption amount, as appropriate;
“Applicable Redemption Date”	the Final Redemption Date or the relevant Early Redemption Date, as applicable;
“Authorisation”	any authorisation, consent, approval, resolution, licence, exemption, filing, notarisation, registration, agreement, certificate, permit and/or authority, or any exemption from any of the aforesaid, by, with or from any authority;
“Authorising Resolution”	a resolution of the Board (i) determining the preferences, rights, limitations and other terms of those Preference Shares in accordance with section 36(3)(d) of the Companies Act (being the terms set out in these Terms and Conditions as amended and/or supplemented by the Applicable Pricing Supplement) and (ii) authorising the issue of those Preference Shares;
“Banks Act”	the Banks Act, 1990;
“Beneficial Interest”	in relation to Preference Shares which is held in the CSD, the beneficial interest as a co-owner of an undivided share of all of the Preference Shares, as contemplated in section 37(1) of the Financial Markets Act, the nominal value of which beneficial interest, in relation to any number of Preference Shares, is determined by reference to the proportion that the aggregate Issue Price of such number of Preference Shares bears to the aggregate Issue Price of all of the Preference Shares, as provided in section 37(3) of the Financial Markets Act;
“Beneficiary”	in relation to a Preference Share, the beneficial owner of that Preference Share, and “Beneficiaries” shall refer to all or some of them, as the context may indicate;
“Board”	the board of directors of the Issuer from time to time;
“Books Closed Period”	in relation to Preference Shares, the period, as specified in the Applicable Pricing Supplement, commencing after the Last Day to Register, during which transfers of that Preference Shares will not be registered;
“Breakage Costs”	the amount (if any) by which: <ul style="list-style-type: none"> (a) the Scheduled Preference Dividend which a Preference Shareholder should have received for the period from the date of receipt of that Scheduled Preference Dividend to the last day of the current Dividend Period in respect of that Scheduled Preference Dividend, had that Scheduled Preference Dividend been paid on the last day of that Dividend Period; <p>exceeds:</p> <ul style="list-style-type: none"> (b) the amount which that Preference Shareholder would be able to obtain by placing an amount

	equal to Scheduled Preference Dividend received by it on deposit with a leading bank in the Johannesburg interbank market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Dividend Period;
“Breakage Dividend”	has the meaning specified in Condition 7.5 (<i>Breakage Preference Dividends</i>);
“Breakage Gains”	the amount (if any) by which: <ul style="list-style-type: none"> (a) the amount which that Preference Shareholder would be able to obtain by placing an amount equal to Scheduled Preference Dividend received by it on deposit with a leading bank in the Johannesburg interbank market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Dividend Period; <p>exceeds:</p> <ul style="list-style-type: none"> (b) the Scheduled Preference Dividend which a Preference Shareholder should have received for the period from the date of receipt of that Scheduled Preference Dividend to the last day of the current Dividend Period in respect of that Scheduled Preference Dividend, had that Scheduled Preference Dividend been paid on the last day of that Dividend Period;
“Bridge Loan”	the bridge loan made available by RMB to the Issuer on or about 6 August 2015;
“Business Centre”	the city specified as such in the Applicable Pricing Supplement, and if not so specified, Johannesburg;
“Business Day”	a day (other than a Saturday or Sunday or public holiday within the meaning of the Public Holidays Act, 1994) which is a day on which commercial banks settle ZAR payments in Johannesburg save that if the Specified Currency is not ZAR, “Business Day” shall mean a day (other than a Saturday or Sunday) which is a day on which commercial banks and foreign exchange markets settle payments in the principal financial centre of the Specified Currency, in the Business Centre, save further that if the Applicable Pricing Supplement so provides, “Business Day” shall include a Saturday;
“Calculation Agent”	RMB;
“Change of Control”	<ul style="list-style-type: none"> (a) in relation to the Issuer or Titan Premier, any person, or group of persons acting in concert acquires control, directly or indirectly, of the Issuer or Titan Premier (as applicable); or (b) in relation to a Material Company: <ul style="list-style-type: none"> (i) the Issuer ceases to hold, directly or indirectly, 50% plus one vote of the equity interests in a Material Company; and/or (ii) any person or group of persons acting in concert (other than the Issuer) acquires

control, directly or indirectly, of a Material Company,

- (iii) without the prior written consent of the Preference Share Agent.

For the purposes of this definition “**control of a company means**”:

- (a) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (i) cast, or control the casting of, more than 50% of the maximum number of votes that might be cast at a general meeting of the company; or
 - (ii) appoint or remove all, or the majority, of the directors of the company; or
 - (iii) give direction with respect to the operating and financial policies of the company with which the directors of the company are obliged to comply; and/or
- (b) the holding beneficially of more than 50% of the issued share capital of the company (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital);

For the purposes of this definition “**acting in concert**” means a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate through the acquisition directly or indirectly of shares in the Issuer, Titan Premier or a Property Company, as the case may be, by any of them, either directly or indirectly, to obtain or control of the Issuer, Titan Premier or a Property Company, as the case may be;

“CIPC”	the Companies and Intellectual Properties Commission;
“Class”	Preference Shares which are (a) expressed in the Authorising Resolution to form part of the same Class, and (b) identical in all respects (including as to listing) except for their respective Issue Dates and/or Issue Prices;
“Class of Preference Shareholder(s)”	the holders of a Class of Preference Shares or, where appropriate, the holders of different Classes of Preference Shares;
“Companies Act”	the Companies Act, 2008;
“Companies Regulations”	the Companies Regulations, 2011;
“Compliance Certificate”	a compliance certificate substantially in the form set out in Schedule 3 to the Subscription Agreement;
“Constitutional Documents”	in respect of any person which is not a natural person at any time, the then current constitutional documents of such person at such time (including, where applicable, such person’s memorandum of association, articles of association, certificate of incorporation, memorandum of incorporation, rules, bylaws, articles of incorporation, trust deed and/or letters of authority);

“Corporate”	a company (other than a small business corporations, non-resident company, employment company, gold mining company, long-term insurance company, tax holiday company or a company which is subject to any special tax dispensation under the Income Tax Act;
“Corporate Tax Rate”	the maximum nominal rate of income tax (expressed as a decimal) levied on the taxable income of companies (other than small business corporations, non-resident companies, employment companies, gold mining companies, long-term insurance companies and tax holiday companies) from time to time in terms of the Income Tax Act, being as at the Programme Date 28% (twenty-eight per cent.);
“CSD”	Strate Proprietary Limited (Registration number 1998/022242/07), or its nominee, a private company registered as a central securities depository in terms of the Financial Markets Act (or any successor legislation thereto), or any additional or alternate depository approved by the Issuer;
“CSD Procedures”	the rules and operating procedures, for the time being, of the CSD and Participants;
“Cure Amount”	an amount contemplated in Condition 34.3 (Equity Cure);
“Day Count Fraction”	<p>in respect of the calculation of an amount for any period of time (the “Calculation Period”), such day count fraction as may be specified in these Terms and Conditions or the Applicable Pricing Supplement:</p> <p>(a) if “1/1” is specified in the Applicable Pricing Supplement, 1; or</p> <p>(b) if “Actual/Actual (ICMA)” is so specified, means:</p> <p style="margin-left: 20px;">(i) where the Calculation Period is equal to or shorter than the Regular Period during which it falls, the actual number of days in the Calculation Period divided by the product of (1) the actual number of days in such Regular Period and (2) the number of Regular Periods in any year; and</p> <p style="margin-left: 20px;">(ii) where the Calculation Period is longer than one Regular Period, the sum of:</p> <p style="margin-left: 40px;">(1) the actual number of days in such Calculation Period falling in the Regular Period in which it begins divided by the product of (1) the actual number of days in such Regular Period and (2) the number of Regular Periods in any year; and</p> <p style="margin-left: 40px;">(2) the actual number of days in such Calculation Period falling in the next Regular Period divided by the product of (1) the actual number of days in such Regular Period and (2) the</p>

number of Regular Periods in any year;

- (c) if “**Actual/365**” or “**Actual/Actual (ISDA)**” is so specified, means the actual number of days in the Calculation Period divided by 365 (or, if any portion of the Calculation Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Calculation Period falling in a non leap year divided by 365);
- (d) if “**Actual/365 (Fixed)**” is so specified, means the actual number of days in the Calculation Period divided by 365;
- (e) “**Actual/360**” is so specified, means the number of days in the Calculation Period divided by 360;
- (f) if “**30/360**” is so specified, means the number of days in the Calculation Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30 day months (unless (i) the last day of the Calculation Period is the 31st day of a month but the first day of the Calculation Period is a day other than the 30th or 31st day of a month, in which case the month that included the last day shall not be considered to be shortened to a 30 day month, or (ii) the last day of the Calculation Period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30 day month)); and
- (g) if “**30E/360**” or “Eurobond Basis” is so specified means, the number of days in the Calculation Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30 day months, without regard to the date of the first day or last day of the Calculation Period unless, in the case of the final Calculation Period, the date of final maturity is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30 day month);
- (h) such other calculation method as is specified in the Applicable Pricing Supplement;

“**Dealer(s)**”

RMB and/or any other additional Dealer appointed under the Programme from time to time by the Issuer, which appointment may be for a specific issue or on an ongoing basis, subject to the Issuer’s right to terminate the appointment of any Dealer;

“**Debt Sponsors**”

the joint debt sponsors, being, Mettle Specialised Finance Proprietary Limited (registration number 2008/027610/07) and Nodus Capital Proprietary Limited (registration number 2007/004535/07) unless the Issuer elects to appoint another entity as a Debt Sponsor, in which event that other entity will act as a Debt Sponsor, as specified in the Applicable Pricing Supplement;

“Declaration Date”	in respect of any Preference Shares listed on the Main Board of the JSE, the date on which the redemption of such Preference Shares and/or the payment of any Preference Dividend, as applicable, and the declaration data (as defined in the JSE Listing Requirements), will be published on SENS, in line the JSE Debt Listing Requirements read with Schedule 18 of the JSE Listings Requirements, from time to time;
“Deliver”	deliver in the manner in which the Issuer is entitled to give notice or deliver documents in accordance with Conditions 20 (<i>Notices</i>), the Companies Act and the Companies Regulations, and shall, where permitted by the Companies Act and the JSE Debt Listings Requirements or JSE Listings Requirements, as applicable, include delivery of an abridged document together with instructions as to how the recipient may obtain an unabridged version of such document;
“Discharge Date”	the date on which: <ul style="list-style-type: none"> (a) all of the Preference Shares have been redeemed and the Issuer’s obligations and liabilities (other than any post-redemption obligations and liabilities) under the Finance Documents to which it is a party have been fully, finally and irrevocably paid and unconditionally discharged to the reasonable satisfaction of the Preference Share Agent whether or not as a result of enforcement; and (b) the Preference Shareholders have no commitment, obligation or liability (whether actual or contingent) to lend money, subscribe for any shares or provide other financial accommodation to the Issuer under any Finance Document;
“Disposal”	a sale, sale and lease-back, licence, transfer, loan, expropriation or other disposal by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions), and “Dispose” shall be construed accordingly;
“Distribution”	any payment by way of interest, principal, dividend, fee, royalty or other distribution of whatsoever nature and howsoever described (including share buy backs, a distribution or payment upon or in connection with a reduction of capital, an issue of shares or other securities credited as fully or partly paid up by way of a capitalisation of profits or reserves and the payment (or repayment) of any amount on loan account) by or on behalf of a company to or for the account of any member or shareholder of that company, in each case whether paid or payable and whether paid or payable in cash or <i>in specie</i> , and for the avoidance of doubt, includes any "distributions" as defined in the Companies Act;
“Dividend Amount”	in relation to a Dividend Period, the amount of dividend payable on the Issue Price of each Preference Share, on each Dividend Payment Date in respect of such Dividend Period, determined by the Calculation Agent in accordance with Condition 7 (<i>Dividend Rights of the Preference Shares</i>);

“Dividend Commencement Date”	the first date from which dividends will accrue, as specified in the Applicable Pricing Supplement;
“Dividend Payment Date”	the date(s) specified in the Applicable Pricing Supplement;
“Dividend Period”	for the purposes of calculation of the Dividend Amount in respect of each Preference Share, each successive period beginning on (and including) a Dividend Payment Date and ending on (but excluding) the following Dividend Payment Date; provided that the first Dividend Period shall begin on (and include) the Dividend Commencement Date and, in respect of any Preference Share, the last Dividend Period in respect of such Preference Share shall end on (but exclude) the Applicable Redemption Date;
“Dividend Rate”	a rate equal to the Dividend Rate Percentage of the ZAR-JIBAR-SAFEX plus the Margin;
“Dividend Rate Determination Date”	the date(s) specified in the Applicable Pricing Supplement;
“Dividend Rate Percentage”	<p>(a) prior to adjustment in accordance with the provisions of Condition 10.2 (Adjustment Events), 72% (seventy two percent); and</p> <p>(b) subsequent to adjustment in accordance with the provisions of Condition 10.2 (Adjustment Events)], the new Dividend Rate Percentage determined in accordance with Condition 10.2 (Adjustment Events);</p>
“Dividends Tax”	“ <i>dividends tax</i> ” as contemplated in Part VIII of Chapter 2 of the Income Tax Act;
“Dividends Tax Rate”	the rate at which the Dividends Tax is levied under the Income Tax Act from time to time;
“Early Redemption Amount”	in respect of any Preference Share, the amount at which such Preference Share will be redeemed by the Issuer pursuant to the provisions of Conditions 12.4 (<i>Early Redemption following a Trigger Event</i>), determined in accordance with Condition 12.5 (<i>Early Redemption Amounts</i>) or as set out in the Applicable Pricing Supplement;
“Early Redemption Date”	<p>in relation to the Preference Shares:</p> <p>(a) the date on which the Issuer elects to exercise its right to redeem those Preference Shares in accordance with Condition 12.2 (<i>Early Redemption at the option of the Issuer</i>), if applicable; or</p> <p>(b) the date on which the Issuer is obliged to redeem those Preference Shares in accordance with Condition 12.3 (<i>Early Redemption following an Illegality Event</i>)</p> <p>(c) the date on which the Issuer is obliged to redeem those Preference Shares in accordance with Condition 12.4 (<i>Early Redemption following a Trigger Event</i>);</p>
“Early Redemption Notice”	has the meaning specified in Condition 15.3;

“Eligible Beneficiary”	a Beneficiary that is either a South African tax resident Corporate or a Beneficiary that would have been entitled to claim a gross-up under Clause 9.1 (Tax Gross-Up) or Clause 10.1 (Consequences of the occurrence of an Adjustment Event) had that Beneficiary been a South African tax resident Corporate, it being recorded, for the avoidance of doubt, that a Beneficiary who was, at the time of acquisition of a Beneficial Interest in a Preference Share, a South African tax resident Corporate but ceased to be a South African tax resident Corporate, other than as a result of any change in Applicable Law or in the interpretation or general application thereof, or the introduction of any new Applicable Law, shall not be an Eligible Beneficiary;
“Entity”	any juristic person, association, business, close corporation, company, concern, enterprise, firm, partnership, Joint Venture, trust, undertaking, voluntary association, body corporate and any similar entity;
“Environment”	humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media: <ul style="list-style-type: none"> (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground); (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and (c) land (including, without limitation, land under water);
“Environmental Claim”	any claim, proceeding, formal notice or investigation by any Person in respect of any Environmental Law or any Authorisation required to be held under an applicable Environmental Law;
“Environmental Law”	any Applicable Law or regulation which relates to: <ul style="list-style-type: none"> (a) the pollution or protection of the Environment; (b) the conditions of the workplace; or (c) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste;
“Equity Cure”	has the meaning contemplated in 34.3 (Equity Cure);
“Ex-Date”	in respect of any Preference Shares listed on the Main Board of the JSE, the date on which the Preference Shares start trading ex-dividend, being one Business Day after the Last Day to Trade, in line the JSE Debt Listing Requirements read with Schedule 18 of the JSE Listings Requirements, from time to time;
“Existing Market Place Facility”	the £27,000,000 Facility Agreement entered into between HSBC Bank plc and Inception Holdings S.à r.l on or about 24 December 2013 (as amended and restated);
“Exit Event”	any one or more of the following event, circumstances or occurrences:

- (a) a Change of Control;
- (b) if any company in which a member of the Group holds any shares:
 - (i) is or becomes a Sanctioned Entity;
 - (ii) participates in any manner in any Sanctioned Transaction;
 - (iii) uses or will use the proceeds of any Preference Share for the purpose of financing or making funds available directly or indirectly to any person or entity which is currently a Sanctioned Entity or as part of a Sanctioned Transaction, to the extent such financing or provision of funds would currently be prohibited by Sanctions or would otherwise cause any person to be in breach of Sanctions;
 - (iv) contributes or will contribute or otherwise make available the proceeds of any Preference Share 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, to the extent such contribution or provision of proceeds would currently be prohibited by Sanctions or would otherwise cause any person to be in breach of Sanctions;

“Extraordinary Resolution”

a resolution passed at a meeting (duly convened) of the Preference Shareholders by a majority consisting of not less than 66.67% (sixty-six point six seven percent) of the Persons voting thereat upon a show of hands or if a poll be duly demanded then by a majority consisting of not less than 66.67% (sixty-six point six seven percent) of the votes given on such poll;

“Extraordinary Written Resolution”

a resolution passed other than at a meeting of the Preference Shareholders or members of the relevant Class of Preference Shareholders, with the written consent of the Preference Shareholders holding not less than 66.7% of the aggregate Issue Price of the Preference Shares or the Preference Shares in that Class, as the case may be, which resolution shall state the date that the Issuer selected to determine which Preference Shareholders recorded in the Register will receive notice of the written resolution;

“FATCA”

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a); or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) with the US Internal Revenue

	Service, the US government or any governmental or taxation authority in any other jurisdiction.
“ FATCA Deduction ”	a deduction or withholding from a payment under a Finance Document required by FATCA.
“ FATCA Exempt Party ”	a Party that is entitled to receive payments free from any FATCA Deduction
“ Fee Letter ”	a fee letter entered into or to be entered into on or about the Issue Date between the Preference Share Agent and the Issuer;
“ Final Discharge Date ”	in respect of each Preference Shareholder, the date of expiry of a period of three years (or such period that SARS has extended such 3 year period in terms of section 99(3) or (4) of the Tax Administration Act, 2011) after the date on which the relevant Preference Shareholder is finally assessed for Tax in respect of all receipts and accruals pertaining to all or any Preference Shares at any time held by that Preference Shareholder;
“ Finalisation Date ”	in respect of any Preference Shares listed on the Main Board of the JSE, the date on the finalisation information (as defined in the JSE Listing Requirements) in respect of the redemption of such Preference Shares and/or the payment of any Preference Dividend will be published on SENS, in line the JSE Debt Listing Requirements read with Schedule 18 of the JSE Listings Requirements. from time to time;
“ Final Redemption Amount ”	the amount payable in respect of each Preference Share upon final redemption thereof, as specified in the Applicable Pricing Supplement;
“ Final Redemption Date ”	four years after the Issue Date;
“ Finance Document ”	<ul style="list-style-type: none"> (a) the Subscription Agreement; (b) the Programme Memorandum; (c) the Terms and Condition; (d) the Applicable Pricing Supplement; (e) a Hedging Agreement; (f) the Fee Letter; (g) each Compliance Certificate; (h) any other written agreement or document designated as a “Finance Document” by written agreement between the Issuer and the Preference Share Agent; and (i) any amendment agreement to any of the Finance Documents referred to in paragraphs (a) to (h), <p>and “Finance Document” means, as the context requires, any of them;</p>
“ Financial Exchange ”	the JSE and/or such other or further financial exchange(s) as may be selected by the Issuer and the relevant Dealer, subject to Applicable Law;
“ Financial Covenant ”	each covenant contemplated in Condition 34.1 (Financial Condition);
“ Financial Indebtedness ”	unless otherwise specified in the Applicable Pricing Supplement, any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with IFRS, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (g) any treasury transaction (and, when calculating the value of any derivative transaction, only the marked to market value or actual net amount payable thereunder shall be taken into account);
- (h) any amount raised by the issue of shares which are redeemable;
- (i) 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
- (j) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in (a) to (l) above.

“Financial Half-Year”	a period of 6 (six) calendar months commencing on the first day of each Financial Year;
“Financial Markets Act”	the Financial Markets Act, 2012;
“Financial Quarter”	each period of 3 (three) calendar months commencing 28 February, 31 May, 31 August and 30 November, respectively;
“Financial Year”	28 February or such other date which is the Financial Year of the Issuer;
“Floating Rate Preference Shares”	Preference Shares which will bear dividends at a floating dividend rate, as specified in the Applicable Pricing Supplement and more fully described in Condition 7.2 (<i>Dividend on Floating Rate Preference Shares</i>);
“GBP” or “Pounds” or “£”	the lawful currency of the United Kingdom;
“Group”	the Issuer and its Subsidiaries from time to time;
“Hedging Agreement”	any master agreement, confirmation, schedule or other agreement entered into by the Issuer for the purpose of hedging Preference Dividends payable under these Terms and Conditions or for the purpose of hedging the currency

	risks relating to the amounts payable by the Group to the Preference Holders;
“Hedged Exchange Rate”	the ZAR: GBP (ZAR per GBP) rate of exchange at which Tradehold will exchange ZAR amounts for GBP amounts, as set out in each Tradehold Hedging Agreement;
“Holding Company”	"holding company" as defined in the Companies Act and any company, corporation or other juristic person that would be a Holding Company if it was a "company" as defined in the Companies Act;
“IFRS”	International Financial Reporting Standards within the meaning of International Accounting Standard Regulation 1606/2002;
“Illegality Event”	has the meaning ascribed thereto in Condition 12.3;
“Increased Costs”	in relation to any Beneficiary: <ul style="list-style-type: none"> (a) a reduction in that Beneficiary's, or any Holding Company of that Beneficiary's, Return or on that Beneficiary's overall return on capital (including, without limitation, as a result of any reduction in that Beneficiary's or the Holding Company of that Beneficiary's return on capital brought about by more capital being required to be allocated by that Beneficiary or any Holding Company of that Beneficiary or that Beneficiary or the Holding Company of that Beneficiary being required to comply with any reserve, cash ratio, special deposit, capital adequacy or liquidity requirement (or any other similar requirement)); (b) an additional or increased cost, liability or expense; or (c) a reduction of any amount payable under the Preference Shares (including, without limitation, the after-Tax Preference Dividend receipt by that Beneficiary in respect of the Preference Shares), <p>which is incurred or suffered by that Beneficiary, or any Holding Company of that Beneficiary, as a consequence of, or attributable to, that Beneficiary having subscribed (or having committed to subscribe) for, or holding and/or funding, any of the Preference Shares or to that Beneficiary performing its obligations under any Finance Document;</p>
“Income Tax Act”	the Income Tax Act, 1962;
“Inception Treasury Transaction”	the GBP fixed for floating interest rate swap transaction entered into between Inception Holdings S.à r.l and HSBC Bank plc on 4 April 2014, concluded under the ISDA Master Agreement dated 3 April 2014, which will be novated to RMB by HSBC Bank plc;
“Indebtedness”	<ul style="list-style-type: none"> (a) in respect of the Issuer, any indebtedness or liability (in each case, whether present or future, actual or contingent) incurred by the Issuer; (b) in respect of any other Material Company, any Financial Indebtedness;
“Individual Certificate”	a certificate exchanged for a Beneficial Interest in the Preference Shares in accordance with Condition 16 (<i>Exchange of Beneficial Interests and Replacement of</i>

Individual Certificates) and any further certificate issued in consequence of a transfer thereof;

“Insolvency Event”

in relation to any person, any of the following events or circumstances:

- (a) it is dissolved or de-registered;
- (b) an order or declaration is made, or a resolution is passed, for the administration, custodianship, bankruptcy, liquidation, winding-up, judicial management, receivership, de-registration or dissolution (and, in each case, whether provisional or final) of it, its assets or its estate or an order or declaration is made, or a resolution is passed, to authorise the commencement of any business rescue proceeding in respect of it, its assets or its estate;
- (c) it convenes any meeting to consider the passing of a resolution for the administration, custodianship, bankruptcy, liquidation, winding-up, judicial management, receivership, de-registration or dissolution (and, in each case, whether provisional or final) of it, its assets or its estate or to authorise the commencement of any business rescue proceeding in respect of it, its assets or its estate;
- (d) it seeks the appointment of an administrator, liquidator (whether provisional or final), business rescue practitioner, conservator, receiver, custodian or other similar official for it or for all or substantially all its assets or estate;
- (e) it has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 (thirty) days thereafter;
- (f) it is unable (or admits inability) to pay its debts generally as they fall due or is (or admits to being) otherwise insolvent or stops, suspends or threatens to stop or suspend payment of all or a material part of its Indebtedness or proposes or seeks to make or makes a general assignment or any arrangement or composition with or for the benefit of its creditors or a moratorium is agreed or declared in respect of or affecting all or a material part of its Indebtedness;
- (g) it takes any proceeding or other step with a view to the general readjustment, rescheduling or deferral of its Indebtedness (or any part thereof which it would otherwise be unable to pay when due) or proposes to take any such step;
- (h) any receiver, administrative receiver, judicial receiver, judicial manager, administrator, compulsory manager, judicial custodian, trustee in bankruptcy, liquidator, business rescue practitioner or the like is appointed in respect of it,

its estate or any material part of its assets or it requests any such appointment;

- (i) it commits any act which, if such act was committed by a natural person, would be an act of insolvency within the meaning of section 8 of the Insolvency Act, 1936 or any equivalent legislation in any jurisdiction to which such person is subject;
- (j) it is or is deemed by any authority or legislation to be Financially Distressed (as defined in the Companies Act);
- (k) it causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (j); or
- (l) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts;

“Insurances”

any contract of insurance required under Clause 36.7 (Insurances);

“Intercompany Loans”

~~(a)~~ ~~the Market Place Facility;~~

~~(b)~~(a) the Portfolio Properties ~~Facility~~Facilities;

~~(e)~~(b) any other loan made by Tradegro to another Material Company (other than the Issuer) with the proceeds from the loans ~~under the Market Place Facility or the~~ Portfolio ~~Property~~Properties Facility;

~~(d)~~(c) any other loan made by Material Company to another Material Company with the prior written consent of the Preference Share Agent;

“Interest Cover Ratio”

at any date, passing rental as a percentage of finance costs at that date. For the purposes of this definition:

(a) **“boutique lease agreement”** means a lease agreement entered into with Boutique Workplace as tenant;

(b) **“Boutique Workplace”** means The Boutique Workplace Company Limited, a company incorporated under the laws of England and Wales under company number 09411671;

(c) **“calculation period”** means each Measurement Period;

(d) **“finance costs”** means:

(i) in respect of the Properties of the Group, the aggregate amount of interest paid by such members of the Group and any Preference Dividends paid by the Issuer during any calculation period in respect of which passing rental has been calculated; and

~~(ii) in respect of the Market Place Property, the aggregate amount of interest paid to the Issuer under the Market Place Facility during any calculation period in respect~~

~~of which passing rental has been calculated; and~~

~~(iii)~~(ii) in respect of the Portfolio Properties, the aggregate amount of interest paid to the Issuer under the Portfolio Properties ~~Facility~~Facilities during any calculation period in respect of which passing rental has been calculated;

(e) “**passing rental**” means, as at any date, the passing net rental income that was received on a regular quarterly basis by the owners of the Properties, ~~the Market Place Properties~~ or the Portfolio Properties, as the case may be, under the Lease Documents during the calculation period ending on that date;

(f) in calculating finance costs any amount paid or received by the Material Companies during the relevant calculation period under any Hedging Agreements will be taken into account;

(g) in calculating passing rental:

(i) net rental income will be ignored if paid by a tenant that is a Material Company or affiliated or related to a Material Company (other than rental income in respect of a boutique lease agreement);

(ii) net rental income will be reduced by the amount of any deduction or withholding for or on account of Tax from that net rental income; and

(iii) net rental income will be reduced by the amounts (together with any related VAT):

(A) of ground rent, rates and insurance premia; and

(B) in respect of costs and expenses incurred in complying with applicable laws and regulations relating to any Property;

to the extent that any of those items are not funded by any tenant, by way of Tenant Contributions or otherwise, under the Lease Documents (including as a result of any lettable space in any Property being vacant);

“**ISDA**”

International Swaps and Derivatives Association, Inc.;

“**Issue Date**”

the date specified as such in the Applicable Pricing Supplement, being the date upon which such Preference Shares is issued by the Issuer;

“**Issue Price**”

the price specified as such in the Applicable Pricing Supplement, being the consideration for which each Preference Share is issued by the Issuer;

“Issuer”	Tradehold Limited (registration number 1970/009054/06), a public company with limited liability duly incorporated in accordance with the company laws of South Africa;
“Issuer Interest Cover Ratio”	at any date, the Interest Cover Ratio in respect of all the Properties of the Group ;
“Issuer LTV”	on any day, the ratio of: <ul style="list-style-type: none"> (a) the aggregate Total Debt of each member of the Group; to (b) the sum of the market value of all the Properties <u>(including the Issuer's Investment in DV4 Limited)</u> held by the Group (determined in accordance with the most recent Valuation of the Properties at that time);
“Issuer MOI”	the Constitutional Documents of the Issuer;
“Joint Venture”	any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity;
“JSE”	JSE Limited (registration number 2005/022939/06), a public company incorporated in accordance with the laws of South Africa, licensed as an exchange under the Financial Markets Act;
“JSE Debt Listings Requirements”	the debt listings requirements of the JSE, as amended from time to time;
“JSE Guarantee Fund”	the Guarantee Fund established and operated by the JSE as a separate guarantee fund, in terms of the rules of the JSE, as required by sections 8(1)(h) and 17(1)(w) of the Financial Markets Act or such other fund of any successor exchange, as the case may be;
“JSE Listings Requirements”	the listings requirements of the JSE, as amended from time to time;
“Last Day to Register”	with respect to a particular Class of Preference Shares (as specified in the Applicable Pricing Supplement), the close of business on the Business Day immediately preceding the first day of a Books Closed Period on which the Transfer Agent will accept Transfer Forms and record the transfer of Preference Shares in the Register for that particular Class of Preference Shares and whereafter, the Register is closed for further transfers or entries until the Payment Day and in the case of Preference Shares listed on the Main Board of the JSE, shall mean the Last Day to Trade;
“Last Day to Trade”	in respect of any Preference Shares listed on the Main Board of the JSE, the last Business Day to trade in a (i) Preference Share cum-dividend or (ii) a Preference Share to be redeemed, in line the JSE Debt Listing Requirements read with Schedule 18 of the JSE Listings Requirements, from time to time;
“Lease Document”	(a) an Agreement for Lease; (b) an Occupational Lease; or any other document designated as such by the Preference Share Agent and the Issuer;
“Managers”	the entity or entities specified in the Applicable Pricing Supplement;

“Market Place Facility”	the term loan facility made available by the Issuer to Tradegro on or about the Programme Date for the Rand equivalent of £44,330,000 (forty four million three hundred and thirty thousand Pounds Sterling);
“Market Place Guarantee”	the guarantee agreement entered into by Inception Holdings S.à.r.l in favour of the Issuer on or about the Programme Date in relation to the Market Place Facility;
“Market Place Interest Cover Ratio”	at any date, the Interest Cover Ratio in respect of the Market Place Property;
“Market Place LTV”	on any day, the ratio of: <ul style="list-style-type: none"> (e) — the total outstanding loans under the Market Place Facility; — the market value of the Market Place Property (determined in accordance with the most recent Valuation of the Properties at that time);
“Market Place Property”	the property known as the Market Place Shopping Centre, Bridge Street, Bolton registered under title numbers GM485110 and MAN28081 and owned by Inception Holdings S.à r.l;
“Margin”	has the meaning ascribed thereto in the Applicable Pricing Supplement;
“Material Adverse Change”	an occurrence or circumstance which has or is reasonably likely to have, a material adverse effect on: <ul style="list-style-type: none"> (a) the business, operations, property or condition (financial or otherwise) of the Issuer, a Material Company or the Group taken as a whole; (b) the ability of the Issuer to perform obligations under the Finance Documents or the ability of any Material Company to perform its payment obligations under any Transaction Agreement; or (c) the validity or enforceability of the Transaction Documents or the validity or enforceability of the rights or remedies of the Preference Shareholder under any of the Finance Documents;
“Material Company”	<ul style="list-style-type: none"> (a) the Issuer; (b) Tradegro; (c) London Office S.à r.l; (d) Moorgarth Property Investments Limited; (e) Moorgarth Properties Limited; (f) Moorgarth Retail Limited; (g) — Inception Holdings S.à r.l; (h)<u>(g)</u> any other member of the Group to whom funding is made available by any other Material Company from the proceeds of an issue of Preference Shares under the Programme;
“Measurement Date”	the last day of each Financial Half Year and the last day of each Financial Year;
“Measurement Period”	each consecutive period of 12 (twelve) Months ending on each Measurement Date;

“Memorandum of Incorporation”		the memorandum of incorporation of the Issuer, including its annexures and/or schedules, as the case may be;
“Month”		a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that: <ul style="list-style-type: none"> (a) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day; and (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month;
““N” Preference Shares”		non-convertible, non-participating, non-transferable redeemable preference shares with a par value of R0.01 (one cent) each in the share capital of the Issuer;
“Net Asset Value”		at each Measurement Date, the consolidated intrinsic net asset value of the Group before Tax, as determined by reference to the most recent financial statements of the Group and/or any Compliance Certificate delivered by Issuer;
“New Equity”		the proceeds of a subscription for shares in the Issuer or other form of equity contribution to the Issuer for purposes of an Equity Cure;
“New Shareholder Debt”		any loan made by the Shareholders to the Issuer for purposes of an Equity Cure provided that: <ul style="list-style-type: none"> (a) such loan is subordinated to the claims of the Preference Shareholders in a form and substance acceptable to the Preference Share Agent; (b) the repayment date of the shareholder loan is a date after the Final Redemption Date;
“Occupational Lease”		any lease or licence or other right of occupation or right to receive rent to which a Property may at any time be subject and includes any guarantee of a tenant’s obligations under the same;
“Original Statements”	Financial	<ul style="list-style-type: none"> (a) in relation to the Issuer, the audited financial statements of the Issuer for the financial year ended 28 February 2017; (b) in relation to each Material Company, its audited (to the extent that they are required to be audited) financial statements for its financial year ended 28 February 2017;
“Original Jurisdiction”		in relation to the Issuer, the jurisdiction under whose laws the Issuer is incorporated as at the Issue Date;
“Other Shares”		any shares of any class of the Issuer (other than the Preference Shares);
“Outstanding Shares Obligations”	Preference	<ul style="list-style-type: none"> (a) the Issue Price of each Unredeemed Preference Share at that time; (b) any outstanding Scheduled Preference Dividends at that time;

	(c) any outstanding Additional Preference Dividends at that time;
	(d) any outstanding Refinance Preference Dividends at that time;
	(e) any outstanding Breakage Preference Dividends at that time;
	(f) any outstanding Penalty Preference Dividends at that time;
	(g) any other amount due and payable and unpaid by the Issuer in accordance with these Terms and Conditions and the Subscription Agreement at that time;
“Participants”	depository institutions accepted by the CSD as participants in terms of Section 31 of the Financial Markets Act;
“Participating Member State”	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;
“Parties”	(a) the Issuer;
	(b) the Preference Share Agent
	(c) each Preference Shareholder for so long as it is a holder of Preference Shares,
	and “Party” means, as the context requires, any one of them;
“Paying Agent”	RMB;
“Payment Day” or “Payment Date”	any day which is a Business Day and upon which a payment is due by the Issuer, which will be the first Business Day following the Record Date, in line the JSE Debt Listing Requirements read with Schedule 18 of the JSE Listings Requirements, from time to time;
“Penalty Dividend Rate”	the meaning ascribed thereto in the Applicable Pricing Supplement;
“Penalty Preference Dividends”	the cumulative cash dividends which are payable in respect of the Preference Shares in accordance with the Terms and Conditions and the Applicable Pricing Supplement;
“Permitted Alterations”	(a) non-structural alterations to a Property;
	(b) alterations (including structural alterations) to a Property which are consistent with the usual course of the business being run from the Property and:
	(i) do not have any adverse impact on the structural integrity of the Property; and
	(ii) do not reduce the Market Value of the Property; and
	(iii) do not exceed £500,000 or (when aggregated with all other works carried out at the Property since the date of the adoption of these Amended and Additional Terms and Conditions do not exceed £1,000,000).

- (c) alterations or additions to service media which:
 - (i) do not have any adverse impact on the structural integrity of the Property; and
 - (ii) do not reduce the Market Value of the Property or reduce Rent being paid from the Property (other, in each case, where the reduction is immaterial); and
 - (iii) alterations or additions required by law;

“Permitted Trade Credit”

trade credit which:

- (a) is payable within 90 (ninety) days;
- (b) is entered into in the ordinary course of the day-to-day business of the relevant entity; and
- (c) is on the relevant supplier’s standard terms;

“Person”

any individual, company, corporation, firm, partnership, joint venture, association, organisation, state or agency of a state or other entity, whether or not having separate legal personality;

“Portfolio Companies”

London Office S.à r.l, Moorgarth Property Investments Limited, Moorgarth Properties Limited and Moorgarth Retail Limited;

“Portfolio Guarantee”

~~the~~each guarantee agreement entered into between the Portfolio Companies in favour of the Issuer on or about the ~~Programme~~Programmes Date in relation to ~~the~~each Portfolio Properties Facility;

“Portfolio Properties”

the properties situated at the following addresses:

- (a) 24 Lime Street, EC3M 7HS registered under title number NGL699544, London owned by London Office S.à r.l (“**24 Lime Street**”);
- (b) 25 – 26 Lime Street, EC3M 7HR registered under title number LN41081~~72~~, London owned by London Office S.à r.l (“**25 – 26 Lime Street**”);
- (c) Wilmington Grove owned by Moorgarth Property Investments Limited; ~~and~~
- (d) Berwick-Upon-Tweed owned by Moorgarth Properties Limited;
- (e) the property known as Rutherglen Shopping Centre, Glasgow, being ALL and WHOLE (FIRST) the tenant’s interest in the subjects known as and forming Mitchell Arcade, Main Street, Rutherglen, G73 2LS registered in the Land Register of Scotland under Title Number LAN83664; (SECOND) the subjects known as and forming 214/218 Main Street, Rutherglen, G73 2HS registered in the Land Register of Scotland under Title Number LAN41870; (THIRD) the tenant’s interest in the subjects known as and forming 222, 226, 228, 230, 232, 234, 236, 238 and 240 Main Street, Rutherglen, G73 2HP registered in the Land Register of Scotland under Title Number LAN27808 (“**Rutherglen (leasehold)**”), and owned by Moorgarth Retail Limited;

	(f) the property known as Rutherglen Shopping Centre, forming 210, 212, 222, 224, 226, 228, 230, 232, 234, 236, 238 and 240 Main Street, Rutherglen, Glasgow, G73 2HP and Mitchell Arcade, Rutherglen, Glasgow registered in the Land Register of Scotland under Title Number LAN223647 (“ Rutherglen (heritable) ”), and owned Moorgarth Property Investments Limited;
	(g) Barrhead owned by Moorgarth Property Investments Limited;
	(h) Johnstone owned by Moorgarth Property Investments Limited
	(i)(h) Girvan owned by Moorgarth Property Investments Limited; the property known as the Market Place Shopping Centre, Bridge Street, Bolton registered under title numbers GM485110 and MAN28081 and owned by Moorgarth Retail Limited (the “Market Place Property”);
“Portfolio Properties FacilityFacilities”	(a) the term loan facility made available by the Issuer to Tradegro on or about the Programme Date for the Rand equivalent of £18,638,000 (eighteen million six hundred and thirty eight thousand Pounds Sterling); <u>and</u>
	(a)(b) the term loan facility made available by the Issuer to Tradegro on or about the Programme Date for the Rand equivalent of £44,330,000 (forty four million three hundred and thirty thousand Pounds Sterling);
“Portfolio Properties Interest Cover Ratio”	at any date, the Interest Cover Ratio in respect of all the Portfolio Properties;
“Portfolio Properties LTV”	means, on any day, the ratio of:
	(a) the total outstanding loans under the Portfolio Properties FacilityFacilities ;
	(b) the aggregate market value of the Portfolio Properties (determined in accordance with the most recent Valuation of the Properties at that time);
“Potential Trigger Event”	in relation to any Preference Share, any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination under any Finance Document or any combination of the foregoing) be a Trigger Event;
“Preference Dividend”	unless otherwise specified in the Applicable Pricing Supplement, any Scheduled Preference Dividends, Accumulated Preference Dividends, Penalty Preference Dividends, Additional Preference Dividends, Breakage Preference Dividends and Refinance Preference Dividends;
“Preference Share Agent”	RMB, or such other agent for the Preference Shareholders as appointed by the Preference Shareholders;
“Preference Share Purchase Transaction”	in relation to a person, a transaction where such person:
	(a) purchases by way of assignment or transfer;
	(b) enters into any sub-participation in respect of; or

	(c) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of,
	any Preference Share or amount outstanding under the Terms and Conditions;
“ Preference Shareholders ”	the holders of the Preference Shares (as recorded in the Register);
“ Preference Shares ”	the class B cumulative, redeemable preference shares in the share capital of the Company, having the rights, privileges and conditions set out in these Terms and Conditions, which will be fully paid and freely transferable, and “ Preference Share ” means, as the context requires, any one of them;
“ Programme Date ”	<u>12 December 2017;</u>
“ Programme Memorandum ”	<u>the Programme Memorandum dated 12 December 2017 relating to the Preference Shares, prepared in connection with the Programme, as revised, supplemented, amended or updated from time to time by the Issuer including, in relation to each Tranche of Preference Shares, by the Applicable Pricing Supplement of such Tranche of Preference Shares and such other documents as are from time to time incorporated therein by reference;</u>
“ Prime Rate ”	the publicly quoted basic rate of interest (percent, per annum, compounded monthly in arrear and calculated on a 365 (three hundred and sixty-five) day year (irrespective of whether or not the year is a leap year)) from time to time of FirstRand Bank Limited as being its prime overdraft rate as certified by any authorised official of such bank, whose appointment, designation or authority need not be proved;
“ Programme ”	Tradehold Limited ZAR1,250,000,000 Domestic Preference Share Programme;
“ Programme Amount ”	the maximum aggregate Issue Price of all Preference Shares that may be issued under the Programme at any one point in time being as at the Programme Date, ZAR1,250,000,000 (or its equivalent in other currencies) or such increased amount as is determined by the Issuer from time to time, subject to the Applicable Procedures and Applicable Law as set out in the section of the Programme Memorandum headed “ <i>General Description of the Programme</i> ”);
“ Programme Date ”	11 December 2017;
“ Programme Memorandum ”	this programme memorandum dated 11 December 2017, which will apply to all Preference Shares issued under the Programme on or after the Programme Date, provided that if (as contemplated in Section 1 of the Programme Memorandum headed “ <i>Documents Incorporated By Reference</i> ”), the Issuer publishes a new Programme Memorandum or a supplement to the Programme Memorandum, as the case may be, references to “ Programme Memorandum ” shall be construed as references to that new Programme Memorandum or the Programme Memorandum as supplemented, as the case may be;
“ Property ”	each property owned by a member of the Group, and “ Properties ” means, as the context requires, all of them;
“ Property Company ”	each member of the Group which holds any Property;

“R” or “Rand” or “ZAR”	the lawful currency of South Africa;
“Record Date”	in respect of any Preference Shares listed on the Main Board of the JSE, the date of which Preference Shareholders must be recorded in the Register in order to qualify for a Dividend Amount or Applicable Redemption Amount, as the case may be, in line the JSE Debt Listing Requirements read with Schedule 18 of the JSE Listings Requirements, from time to time;
“Reference Banks”	the banks specified as such in the Applicable Pricing Supplement, or, if none are specified, four major banks selected by the Calculation Agent (after consultation with the Issuer) in the market that is most closely connected with the Reference Rate;
“Reference Rate”	the meaning ascribed thereto in the Applicable Pricing Supplement;
“Refinance Dividend Date”	shall have the Refinance Preference Dividend, the date contemplated same meaning specified in Condition in Condition 7.6.1;
“Refinance Preference Dividend”	<p>a preference cash dividend in respect of each Preference Share redeemed from the proceeds of a Refinancing, in an amount equal to:</p> <ul style="list-style-type: none"> (a) if the Preference Share is redeemed before the first anniversary of the Issue Date, 3% (three percent) of the Issue Price of each Preference Share redeemed, divided by the number of Unredeemed Preference Shares; (b) if the Preference Share is redeemed on or after the first anniversary of the Issue Date but before the second anniversary of the Issue Date, 2% (two percent) of the Issue Price of each Preference Share redeemed, divided by the number of Unredeemed Preference Shares; (c) if the Preference Share is redeemed on or after the second anniversary of the Issue Date but before the fourth anniversary of the Issue Date, 1% (one percent) of the Issue Price of each Preference Share redeemed, divided by the number of Unredeemed Preference Shares;
“Refinancing”	the redemption of any Preference Shares, funded directly or indirectly by the Issuer, by way of the incurral by the Issuer or any other Person of indebtedness or the issue of equity or quasi equity by the Issuer or any other Person for the purposes of funding such redemption, provided that any equity contributed to the Issuer by (i) its shareholder or Affiliates or (ii) from internally generated funds shall not be deemed to be a Refinancing, and “Refinance” shall be construed accordingly
“Register”	the register of Preference Shareholders maintained by the Transfer Agent in terms of Condition 18 (<i>Register</i>);

“Regular Period”

- (a) in the case of Preference Shares where dividend is scheduled to be paid only by means of regular payments, each period from and including the Dividend Commencement Date to but excluding the first Dividend Payment Date and each successive period from and including one Dividend Payment Date to but excluding the next Dividend Payment Date;
- (b) in the case of Preference Shares where, apart from the first Dividend Period, dividend is scheduled to be paid only by means of regular payments, each period from and including a Regular Date, where “*Regular Date*” means the day and month (but not the year) on which any Dividend Payment Date falls; and
- (c) in the case of Preference Shares where, apart from one Dividend Period other than the first Dividend Period, dividend is scheduled to be paid only by means of regular payments, each period from and including a Regular Date to but excluding the next Regular Date, where “*Regular Date*” means the day and the month (but not the year) on which any Dividend Payment Date falls other than the Dividend Payment Date falling at the end of the irregular Dividend Period;

“Regulatory Event”

any change in:

- (a) the JSE Listings Requirements, JSE Debt Listings Requirements or any other Financial Exchange on which the Preference Shares are to be listed (if applicable);
- (b) the exchange control regulations of South Africa, Luxembourg, England or Malta;
- (c) the Income Tax Act or any other legislation which imposes any taxation of any nature whatsoever on the Issuer, in relation to the Preference Shares, in Malta and/or South Africa; or
- (d) the Maltese Companies Act (Chapter 386 of the Laws of Malta), the Companies Act, the English Companies Act, 2006 and any other legislation, whether Maltese, English, Luxembourgish or South African which deals with companies generally;

“Release Document”

each of the following documents:

- (a) the deed of release between HSBC Bank plc, Inception Holdings S.à r.l, Moogarth Group Limited, Europrop Holdings Limited and Tauri Holdings S.à r.l;
- (b) the deed of release given by the Issuer in favour of London Office S.à r.l, Moogarth Properties Limited and Moogarth Property Investments Limited;
- (c) the deed of release given by FirstRand Bank Limited (acting through its Rand Merchant Bank division) in favour of London Office S.à r.l, RSP

Investments Limited; and River Street Properties Limited;

(d) the discharge by the Issuer in favour of Moorgarth Retail Limited in respect of Rutherglen (leasehold);

(e) the discharge by the Issuer in favour of Moorgarth Property Investments Limited in respect of Johnstone;

~~(f)~~ the discharge by the Issuer in favour of Moorgarth Property Investments Limited in respect of ~~Girvan;~~

~~(g)(f)~~ ~~the discharge by the Issuer in favour of Moorgarth Property Investments Limited in respect of~~ Barrhead;

~~(g)~~ the discharge by the Issuer in favour of Moorgarth Property Investments Limited in respect of 42 High Street, Johnstone, PA5 8AN;

~~(h)~~ ~~the discharge by the Issuer in favour of Moorgarth Property Investments Limited in respect of~~ 63/71 Dalrymple Street, Girvan KA26 9BS;

~~(h)(i)~~ ~~the discharge by the Issuer in favour of Moorgarth Property Investments Limited in respect of~~ Rutherglen (heritable);

~~(i)(j)~~ the retrocession of assignment of rents by the Issuer in favour of Moorgarth Property Investments Limited in respect of Rutherglen (heritable);

~~(j)(k)~~ the retrocession of assignment of rents by the Issuer in favour of Moorgarth Property Investments Limited in respect of Barrhead;

~~(k)(l)~~ the retrocession of assignment of rents by the Issuer in favour of Moorgarth Retail Limited in respect of Rutherglen (leasehold);

~~(l)(m)~~ the retrocession of assignment of rents by the Issuer in favour of Moorgarth Property Investments Limited in respect of 42 High Street, Johnstone, PA5 8AN; and

~~(m)(n)~~ the retrocession of assignment of rents by the Issuer in favour of Moorgarth Property Investments Limited in ~~favour of the Issuer in~~ respect of 67/71 Dalrymple Street, Girvan, KA26 9BS;

“Relevant Date”

in respect of any payment relating to the Preference Shares, the date on which such payment first becomes due and payable, except that, in relation to monies payable to the CSD in accordance with these Terms and Conditions, it means the first date on which:

(a) the full amount of such monies have been received by the CSD;

(b) such monies are available for payment to the holders of Beneficial Interests; and

	(c) notice to that effect has been duly given to such holders in accordance with the Applicable Procedures;
“Relevant Screen Page”	the page, section or other part of a particular information service (including, without limitation, Reuters) specified as the Relevant Screen Page in the Applicable Pricing Supplement), or such other page, section or other part as may replace it on that information service or such other information service, in each case, as may be nominated by the Person providing or sponsoring the information appearing there for the purpose of displaying rates or prices comparable to the Reference Rate;
“Relevant Time”	the meaning ascribed thereto in the Applicable Pricing Supplement;
“Repeating Representations”	have the same meaning specified in Condition 32.21.2.1;
“Repetition Date”	have the same meaning specified in Condition 32.21.2.2;
“Representations”	the representations and warranties given by the Issuer in favour of the Preference Shareholders as set out in Condition 32 (Representations and Warranties);
“Representative”	a Person duly authorised to act on behalf of a Preference Shareholder, who may be regarded by the Issuer, the Transfer Agent and the Paying Agent (all acting in good faith) as being duly authorised based upon the tacit or express representation thereof by such Representative, in the absence of express notice to the contrary from such Preference Shareholder;
“Reserve Account”	a non- interest bearing bank account held by the Issuer with the Account Bank with such bank account details as will be notified to the Issuer by the Account Bank, and as the same may be re-designated, substituted or replaced from time to time by the Issuer with the prior consent of the Preference Share Agent;
“Restricted Period”	in respect of this tranche of Preference Shares, the period commencing on the Issue Date of the Preference Shares and terminating on the third anniversary of the Issue Date (both dates inclusive);
“Return”	in relation to a Beneficiary, the overall return on investment to be achieved by such Beneficiary or the Holding Company of such Beneficiary, as the case may be, measured as at the Programme Date in respect of, or in connection with, the subscription, holding and/or funding of the Preference Shares, and includes (but is not limited to): <ul style="list-style-type: none"> (a) such Beneficiary's, or the Holding Company of such Beneficiary's, financial return, net of charges, costs, imposts, capital adequacy or liquidity requirements or any other costs, charges, levies or imposts in respect of which an Adjustment Event may apply; and/or (b) such Beneficiary's, or the Holding Company of such Beneficiary's, after-Tax return (net of all Taxes payable in respect of, or in connection with, or as a result of the subscribing for, holding and/or funding of the Preference Shares);

“RMB”	FirstRand Bank Limited (acting through its Rand Merchant Bank division);
“Round Robin Resolution”	<p>a resolution passed other than at a meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, which:</p> <p>(a) was submitted for consideration to Preference Shareholders entitled to exercise voting rights in relation to the resolution; and</p> <p>(b) was voted on by the requisite percentage of Preference Shareholders entitled to vote by signing a resolution in counterparts within 20 (twenty) Business Days after the resolution was submitted to them;</p>
“Sanctioned Entity”	<p>(a) a person, country or territory which is listed on a Sanctions List or is subject to Sanctions;</p> <p>(b) a person which is ordinarily resident in a country or territory which is listed on a Sanctions List or is subject to Sanctions;</p>
“Sanctioned Transaction”	<p>the use of the proceeds of the Preference Shares for the purpose of financing or providing any credit, directly or indirectly, to:</p> <p>(a) a Sanctioned Entity; or</p> <p>(b) any other person or entity, if a Material Company has actual knowledge that the person or entity proposes to use the proceeds of the financing or credit for the purpose of financing or providing any credit, directly or indirectly, to a Sanctioned Entity,</p> <p>in each case to the extent that to do so is prohibited by, or would cause any breach of, Sanctions;</p>
“Sanctions”	trade, economic or financial sanctions, laws, regulations, embargoes or restrictive measures imposed, administered or enforced from time to time by any Sanctions Authority;
“Sanctions Authority”	<p>(a) the United Nations;</p> <p>(b) the European Union;</p> <p>(c) the Council of Europe (founded under the Treaty of London, 1946);</p> <p>(d) the government of the United States of America (“US”); or</p> <p>(e) the government of the United Kingdom;</p> <p>(f) the government of the Republic of France;</p> <p>(g) the government of Australia;</p> <p>and any of their governmental authorities, including, without limitation, the Office of Foreign Assets Control for the US Department of Treasury (“OFAC”), the US Department of Commerce, the US State Department or the US Department of the Treasury, Her Majesty’s Treasury (“HMT”) and the French Ministry of Finance (“MINEFI”);</p>

- “Sanctions List”** (a) the Specially Designated Nationals and Blocked Persons List maintained and published by OFAC; or
- (b) the Consolidated List of Financial Sanctions Targets and the Investments Ban List maintained by HMT,
- and any similar list maintained and published, or a public announcement of a Sanctions designation made, by any Sanctions Authority, in each case as amended, supplemented or substituted from time to time;
- “Scheduled Preference Dividend”** the cumulative cash dividends which are payable in respect of a Preference Share in accordance with the Terms and Conditions and the Applicable Pricing Supplement;
- “Scheduled Dividend Date”** has the meaning ascribed thereto in the Applicable Pricing Supplement;
- “Scheduled Redemption Date”** each date specified in Column 1 of the table contemplated in the definition of Scheduled Preference Shares;
- “Scheduled Preference Shares”** in respect of each Scheduled Redemption Date, the number of Preference Shares specified opposite such date in Column 2 of the table below:

Column 1	Column 2
Scheduled Redemption Date	Scheduled Preference Shares
36 Months and 1 (one) Business Day after the Issue Date	13,750,000
42 Months after the Issue Date	67,500,000
Final Redemption Date	1,168,750,000

- “Scheduled Reserve Amount”** in respect of each Scheduled Reserve Date, the amounts specified opposite such date in Column 2 of the table below:

Column 1	Column 2
Scheduled Reserve Date	Scheduled Reserve Amount
6 Months after the Issue Date	10,000,000
12 Months after the Issue Date	10,000,000
18 Months after the Issue Date	11,250,000
24 Months after the Issue Date	11,250,000

30 Months after the Issue Date 12,500,000

36 Months after the Issue Date 12,500,000

“Scheduled Reserve Date”

each date specified in Column 1 of the table contemplated in the definition of Scheduled Reserve Amount;

“Security”

- (a) any mortgage, charge (whether fixed or floating), pledge, lien, assignment or cession conferring security, hypothecation, security interest, preferential right or trust arrangement or other encumbrance securing any obligation of any person;
- (b) any arrangement under which money or claims to, or for the benefit of, a bank or other account may be applied, set off or made subject to a combination of accounts so as to effect discharge of any sum owed or payable to any person;
- (c) any other security interest of any kind whatsoever, or any agreement to sell or otherwise Dispose of any asset, on terms whereby such asset is or may be leased or reacquired or acquired; or
- (d) any other type of preferential agreement or arrangement (including any title transfer and retention arrangement), the effect of which is the creation of a security interest;

“Security Charge”

each of the following fixed charges, standard securities and assignation of rent:

- (a) the fixed charge granted ~~or to be granted~~ by Moorgarth Properties Limited in favour of the Issuer over Berwick-~~Upon~~upon-Tweed;
- (a) the fixed charge ~~granted or to be~~ granted by Moorgarth Property Investments Limited in favour of the Issuer over Wilmington Grove;
- (b) the fixed charge granted by London Office S.~~à~~à r.l in favour of the Issuer over 24 Lime Street and 25-26 Lime Street;
- (c) the fixed charge granted or to be granted by ~~Inception Holdings S.à~~à r.l ~~Moorgarth Retail Limited on 1 January 2020~~ in favour of the Issuer over the Market Place Property;
- (d) the standard security by Moorgarth Retail Limited in favour of the Issuer over Rutherglen (leasehold);
- ~~(e)~~ the standard security by Moorgarth Property Investments in favour of the Issuer over ~~Johnstone~~;
- ~~(f)~~ the standard security by Moorgarth Property Investments in favour of the Issuer over Girvan;
- ~~(g)~~(e) the standard security by Moorgarth Property Investments in favour of the Issuer over Barrhead;

~~(h)~~(f) the standard security by Moorgarth Property Investments in favour of the Issuer over Rutherglen (heritable);

~~(i)~~(g) the assignment of rents by Moorgarth Property Investments in favour of the Issuer in respect of Rutherglen (heritable);

~~(j)~~(h) the assignment of rents by Moorgarth Property Investments in favour of the Issuer in respect of Barrhead;

~~(k)~~(i) the assignment of rents by Moorgarth Retail Limited in favour of the Issuer in respect of Rutherglen (leasehold);

~~(l)~~ the assignment of rents by Moorgarth Property Investments in favour of the Issuer in respect of Johnstone;

~~(m)~~ the assignment of rents by Moorgarth Property Investments in favour of the Issuer in respect of Girvan;

~~(n)~~(j) any other fixed charge, standard security or assignment of rents granted or to be granted by a Material Company in favour of another Material Company for purposes of securing an Intercompany Loan;

“SENS”	the Securities Exchange News Service established by the JSE;
“Settlement Agent”	the Custodian, approved by the CSD to perform electronic net settlement of both funds and scrip on behalf of market participants;
“Shareholder”	the holders of ordinary shares in the Issuer from time to time;
“Solvency and Liquidity Test”	the "solvency and liquidity test" contemplated in section 4(1) of the Companies Act
“South Africa”	the Republic of South Africa;
“Special Resolution”	a resolution adopted with the support of at least 75% (seventy five percent) by the voting rights exercised on that resolution;
“Specified Currency”	has the meaning ascribed thereto in the Applicable Pricing Supplement;
“Specified Office”	the registered address of the Issuer or the relevant agent, as the case may be, as specified in the Applicable Pricing Supplement or such other address as the Issuer or the relevant agent, as the case may be, may specify by notice to the Preference Shareholders which change of address shall in each case be notified to the Preference Shareholders in accordance with Condition 20 (<i>Notices</i>);
“STT”	securities transfer tax levied under the Securities Transfer Tax Act, 2007
“Subscription Agreement”	the Preference Shares Subscription Agreement entered into between, among others, the Preference Share Agent and the Issuer on or about the Programmes Date pursuant to which the Issuer issues the Preference Shares;

“Subsidiary”	a "subsidiary" as defined in the Companies Act and any company, corporation or other juristic person that would be a Subsidiary if it was a "company" as defined in the Companies Act
“Swiss Branch”	the Swiss Finance Branch of Tradegro, with identification number CHE-109.980.352, and with its registered address at Bahnhofstrasse 30, 6300 Zug, Switzerland;
“Taxes”	all present and future taxes, duties, imposts, levies, charges, fees withholdings or deductions of whatever nature imposed, levied, collected, withheld or assessed by, or on behalf of, any governmental, fiscal or other competent authority in South Africa (including any penalty payable in connection with any failure to pay, or delay in paying, any of the same), and “Tax” and “Taxation” will be construed accordingly;
“Tenant Contributions”	any amount paid or payable to an Obligor by any tenant under a Lease Document or any other occupier of a Property, by way of: <ul style="list-style-type: none"> (a) contribution to: <ul style="list-style-type: none"> (i) ground rent; (ii) insurance premia; (iii) the cost of an insurance valuation; (iv) a service or other charge in respect of a Material Company’s costs under or in connection with any management, repair, maintenance or similar obligation or in providing services to a tenant of, or with respect to, a Property; or (v) a reserve or sinking fund; or (b) VAT;
“Term”	the period commencing on the Issue Date and ending on the Discharge Date;
“Terms and Conditions”	the preferences, rights, limitations and other terms associated with the Preference Shares, being those preferences, rights, limitations and other terms set out in the section of Programme Memorandum headed “Terms and Conditions”, this Applicable Pricing Supplement, which the Board has determined in terms of the Authorising Resolution and in accordance with section 36(3)(d) of the Companies Act, will be associated with the Preference Shares;
“Titan Premier”	Titan Premier Investments Proprietary Limited, a company incorporated under the laws of South Africa with registration number 1979/000776/07;
“Total Debt”	the aggregate of all Indebtedness of the Group;
“Tradegro”	Tradegro S.à r.l, a company incorporated under the law of the Grand-Duchy of Luxembourg with registration number B 149.807, with a share capital of £108,217,462 and acting, where applicable, through its duly authorised Swiss Branch;
“Transaction Agreement”	(a) the <u>each</u> Portfolio Properties Facility; (b) the Market Place Facility;

	<p>(e)(b) the Portfolio Guarantee and the Market Place Guarantee;</p> <p>(d)(c) each Security Charge;</p> <p>(e)(d) any other agreement designated as a Transaction Agreement between the Issuer and the Preference Share Agent;</p>
“Transaction Documents”	the Transaction Agreements and the Finance Documents;
“Transfer Agent”	Computershare Investor Services Proprietary Limited, registration number 2004/003647/07;
“Transfer Form”	the written form for the transfer of a Preference Share represented by an Individual Certificate, in the form approved by the Transfer Agent and signed by the transferor and transferee;
“Trigger Event”	a Trigger Event as set out in Condition 15 (<i>Trigger Events</i>);
“Unredeemed Preference Shares”	at any time, any Preference Shares which have not been redeemed by the Issuer at that time in accordance with the Terms and Conditions;
“Unspecified Shares”	redeemable preference shares of no par value, as envisaged in section 36(1)(d) of the Companies Act, other than the Preference Shares, 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 “N” Preference Shares and Ordinary Shares in respect of dividends and on a winding up;
“Valuation”	a valuation of a Property or, as the context requires, the Properties either by the Valuer or by the management of a Material Company;
“Valuer”	Knight Frank, CB Richard Ellis, Savills, Jones Lang Lasalle, Strutt & Parker or any other surveyor or valuer appointed by the Preference Share Agent (in consultation with the Issuer) 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 a Valuer or determine that any person or entity is no longer a Valuer;
“VAT”	value added tax as levied in terms of the Value Added Tax Act, 1991 and any other Tax of a similar nature;
“Weighted Hedged Exchange Rate”	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 Hedging Agreement, determined in the event of a dispute between the Issuer and any Preference Shareholder or if, at any time during the relevant Measurement Period no valid or enforceable Hedging Agreement is in place, by the Preference Share Agent, acting as an expert, not as an arbitrator;
“ZAR”	the lawful currency of South Africa, being South African Rand, or any successor currency;
“ZAR-JIBAR-SAFEX”	the mid-market rate for deposits in ZAR for a period of the Dividend Period which appears on the Reuters Screen SAFEX Page as at 12h00, Johannesburg time on the Dividend Rate Determination Date, or any successor rate.

2. **INTERPRETATION**

2.1 Interpretation

2.1.1 In these Terms and Conditions:

- 2.1.1.1 if an expression is stated in Condition 1 (*Definitions and Interpretation*) to have the meaning given in the Applicable Pricing Supplement, but the Applicable Pricing Supplement gives no such meaning or specifies that such expression is “*not applicable*” then such expression is not applicable to the Preference Shares;
- 2.1.1.2 any reference to any statute, regulation or other legislation will be a reference to that statute, regulation or other legislation as at the Programme Date and as amended, re-enacted or replaced and substituted from time to time;
- 2.1.1.3 any reference to “*Currency*” or “*currency*” means the lawful currency from time to time of a country.

2.1.2 Unless inconsistent with the context or save where the contrary is expressly specified in the Terms and Conditions:

- 2.1.2.1 references to any Condition are to that Condition of the Terms and Conditions;
 - 2.1.2.2 words denoting the singular only will include the plural also and vice versa, words denoting one gender
 - 2.1.2.3 only will include the other genders and words denoting persons only will include firms and corporations and vice versa;
 - 2.1.2.4 the use of the word “*including*” followed by a specific example/s will not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule will not be applied in the interpretation of such general wording or such specific example/s. Such references to “*including*” and “*in particular*” will not be construed restrictively but will mean “*including, without prejudice to the generality of the foregoing*” and “*in particular, but without prejudice to the generality of the foregoing*” respectively;
 - 2.1.2.5 any reference to days (other than a reference to Business Days), months or years will be a reference to calendar days, months or years, as the case may be;
 - 2.1.2.6 where any number of days is to be calculated from a particular day, such number shall be calculated as inclusive of the first day and exclusive of the last day. If the last day of such number so calculated falls on a day which is not a Business Day, the last day shall be deemed to be the immediately succeeding day which is a Business Day.
- 2.1.3 If any provision in a definition in the Terms and Conditions is a substantive provision conferring a right or imposing an obligation on any party then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of the Terms and Conditions.
- 2.1.4 Headings and sub-headings in the Terms and Conditions are inserted for convenience only.
- 2.1.5 Where any term is defined within a particular Condition, that term shall bear the meaning ascribed to it in that Condition wherever it is used in the Terms and Conditions.
- 2.1.6 The rule of construction that, in the event of ambiguity, a contract shall be interpreted against the party responsible for the drafting thereof shall not be applied in the interpretation of the Terms and Conditions.

2.2 **Preference Shareholders’ Rights and Obligations**

- 2.2.1 The obligations of each Preference Shareholder under the Finance Documents are several. Failure by a Preference Shareholder to perform its obligations under the Finance Documents does not affect the obligations of any other Preference Shareholder under the Finance Documents. No Preference Shareholder is responsible for the obligations of any other Preference Shareholder under the Finance Documents.

- 2.2.2 The rights of each Preference Shareholder under or in connection with the Finance Documents are separate and independent rights and any debt or obligation arising under the Finance Documents to a Preference Shareholder from the Issuer shall be a separate and independent debt or obligation.
- 2.2.3 A Preference Shareholder may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.
- 2.2.4 The Preference Share Agent shall not be the agent or trustee of the Issuer under or in relation to any Finance Document.

3. **ISSUE**

- 3.1 The Issuer may, at any time and from time to time (without the consent of any Preference Shareholder), subject to the provisions of the applicable Authorising Resolution, issue Preference Shares pursuant to the Programme; provided that the aggregate Issue Price of all the Preference Shares issued under the Programme from time to time does not exceed the Programme Amount.
- 3.2 Preference Shares will, subject to Conditions 27 (*Preference Shares and the Companies Act*):
 - 3.2.1 be issued on, and subject to, the applicable Terms and Conditions as determined by the Board from time to time at the time of issuance in accordance with section 36(3)(d) of the Companies Act pursuant to the applicable Authorising Resolution;
 - 3.2.1 be issued with an Applicable Redemption Date which falls more than three years plus one day after the Issue Date; and
 - 3.2.2 be issued in accordance with the Companies Act and the Issuer Memorandum of Incorporation; and
 - 3.2.3 bear the status set out in Condition 6 (*Status of Preference Shares*),
provided that, the Preference Shares in all cases shall be subject to these Terms and Conditions, as replaced, amended and/or supplemented by the terms and conditions set out in the Applicable Pricing Supplement.
- 3.3 Copies of the Applicable Pricing Supplement and Authorising Resolution are available for inspection at the Specified Office of the Issuer.

4. **FORM**

4.1 **General**

- 4.1.1 The Preference Shares shall be issued in the form of listed Preference Shares.
- 4.1.2 The Preference Shares may be listed on the JSE or on such other or further Financial Exchange(s) as may be determined by the Issuer, subject to any Applicable Law.

4.2 **Preference Shares**

4.2.1 *Preference Shares issued in uncertificated form*

The Preference Shares shall, subject to Applicable Law and Applicable Procedures, be issued in uncertificated form in terms of section 33 of the Financial Markets Act. Preference Shares issued in uncertificated form will be held in the CSD. Preference Shares issued in uncertificated form will not be represented by any certificate or written instrument. A Preference Share which is represented by an Individual Certificate may be replaced by uncertificated securities in terms of section 33 of the Financial Markets Act.

4.2.2 *Beneficial Interests in Preference Shares held in the CSD*

The CSD will hold Preference Shares issued in uncertificated form, subject to the Financial Markets Act and the CSD Procedures.

All amounts to be paid and all rights to be exercised in respect of Preference Shares held in the CSD will be paid to and may be exercised, subject to CSD Procedures, only by the CSD for the holders of Beneficial Interests in such Preference Shares.

A holder of a Beneficial Interest shall only be entitled to exchange such Beneficial Interest for Preference Shares represented by an Individual Certificate in accordance with Condition 16 (*Exchange of Beneficial Interests and Replacement of Individual Certificates*).

4.2.3 *Final Redemption Amount and Specified Currency*

The Final Redemption Amount and Specified Currency of Preference Shares are specified in the Applicable Pricing Supplement.

4.2.4 *Recourse to the JSE Guarantee Fund*

The holders of Preference Shares that are not listed on the JSE will have no recourse against the JSE or the JSE Guarantee Fund, as applicable. Claims against the SE Guarantee Fund may only be made in respect of the trading of Preference Shares listed on the JSE and can in no way relate to a default by the Issuer of its obligations under the Preference Shares listed on the JSE. Any claims against the JSE Guarantee Fund may only be made in accordance with the rules of the JSE Guarantee Fund.

4.3 **Preference Shares**

Each Preference Share will, subject to Condition 27 (*Preference Shares and the Companies Act*):

- 4.3.1 be redeemable and be issued with an Applicable Redemption Date which falls more than 3 (three) years after the Issue Date, as indicated in the Applicable Pricing Supplement;
- 4.3.2 be issued as fully paid up shares in the Issuer;
- 4.3.3 be issued in accordance with the Companies Act and the Issuer's Memorandum of Incorporation;
- 4.3.4 be issued at such Issue Price as is specified in the Applicable Pricing Supplement.
- 4.3.5 be cumulative, non-participating Preference Shares; and
- 4.3.6 have the status set out in Condition 6 (*Status of Preference Shares*).

5. **TITLE**

5.1 **Preference Shares issued in certificated form**

- 5.1.1 Each holder of Preference Shares represented by an Individual Certificate will be named in the Register as the registered holder of such Preference Shares.
- 5.1.2 Title to Preference Shares represented by an Individual Certificate will pass upon registration of transfer in the Register in accordance with Condition 17.2 (*Transfer of Preference Shares represented by Individual Certificates*).
- 5.1.3 The Issuer, the Transfer Agent and the Paying Agent shall recognise a holder of Preference Shares represented by an Individual Certificate as the sole and absolute owner of the Preference Shares registered in that Preference Shareholder's name in the Register (notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) and shall not be bound to enter any trust in the Register or to take notice of or to accede to the execution of any trust, express, implied or constructive, to which any Preference Share may be subject.

5.2 **Preference Shares issued in uncertificated form**

- 5.2.1 The registered Preference Shareholder of Preference Shares which are held in the CSD, will be determined in accordance with the CSD Procedures, and will be named in the Register as the registered holder of such Preference Shares.
- 5.2.2 Title to Preference Shares issued in uncertificated form will pass upon registration of transfer in the Register in accordance with Condition 17.1 (*Transfer of Beneficial Interests in Preference Shares held by the CSD*).
- 5.2.3 The CSD (as the registered holder of such Preference Shares issued in uncertificated form named in the Register) will be treated by the Issuer, the Paying Agent, the Transfer Agent and the relevant Participant as the holder of that aggregate Issue Price of such uncertificated Preference Shares for all purposes.

5.3 **Beneficial Interests in Preference Shares held in the CSD**

- 5.3.1 The Participant will maintain records of the Beneficial Interests in Preference Shares held in the CSD.

- 5.3.2 While Preference Shares is held in the CSD, the registered Preference Shareholder of the Preference Shares, determined in accordance with the CSD Procedures, will be named in the Register as the sole Preference Shareholder of such Preference Share.
- 5.3.3 Beneficial Interests which are held by clients of Participants will be held indirectly through such Participants, and such Participants will hold such Beneficial Interests, on behalf of such clients, through the securities accounts maintained by such Participants for such clients. The clients of Participants may include the holders of Beneficial Interests or their custodians. The clients of Participants, as the holders of Beneficial Interests or as custodians for such holders, may exercise their rights in respect of the Preference Shares held by them in the CSD only through their Participants.
- 5.3.4 In relation to each Person shown in the records of the CSD or the relevant Participant, as the case may be, as the holder of a Beneficial Interest in a particular aggregate Issue Price of Preference Shares, a certificate or other document issued by the CSD or the relevant Participant, as the case may be, as to the aggregate Issue Price of such Preference Shares and the aggregate Issue Price standing to the account of such Person shall be *prima facie* proof of such Beneficial Interest.
- 5.3.5 Beneficial Interests in Preference Shares may be transferred only in accordance with the Applicable Procedures. Transfer of Beneficial Interests in Preference Shares issued in uncertificated form will not be recorded in the Register and the CSD will continue to be reflected in the Register as the registered holder of such Preference Shares, notwithstanding such transfers.
- 5.3.6 Any reference in the Terms and Conditions to the relevant Participant shall, in respect of a Beneficial Interest, be a reference to the Participant appointed to act as such by the holder of such Beneficial Interest.

6. STATUS OF PREFERENCE SHARES

6.1 Ranking

- 6.1.1 Preference Shares comprise share capital of the Issuer and, in accordance with the Memorandum of Incorporation, unless otherwise specified in the Applicable Pricing Supplement, rank as regards to the payment of dividends and a return of capital on the winding-up of the Issuer (i) *pari passu* among themselves, (ii) in priority to the ordinary shares and non-participating preference shares of the Issuer, and (iii) below all claims in respect of any indebtedness of the Issuer.
- 6.1.2 Each Preference Share shall have associated with it the right of the Preference Shareholder to receive, in the event of the liquidation, dissolution or winding-up of the Issuer, a preferred right, in the order of priority the rights of other shares as set out above, to a return of capital in an amount equal to the Outstanding Preference Shares Obligations in respect of such Preference Share calculated on the date on which payment of that return of capital is made by the Issuer to the Preference Shareholder of such Preference Share.

7. DIVIDEND RIGHTS OF THE PREFERENCE SHARES

7.1 Right to Preference Dividends

- 7.1.1 Subject to Applicable Law and Condition 7.1.2, the Preference Shares will confer on the Preference Shareholders a right to receive, in priority to any payments of dividends to the holders of any lower ranking shares in the Issuer, a cumulative preferential cash dividend, determined and payable in accordance with this Condition 7 and the Applicable Pricing Supplement.
- 7.1.2 If the Issuer is specified in the Applicable Pricing Supplement as having a discretion to declare and pay Preference Dividends, no Preference Dividend shall accrue or be payable to the Preference Shareholders or Class of Preference Shareholders, as the case may be, if the Issuer does not declare such Preference Dividends.

7.2 Dividend on Floating Rate Preference Shares

- 7.2.1 *Accrual of Dividend*

Each Floating Rate Preference Share will have associated with it the right of the holder of such Floating Rate Preference Share to receive a cumulative preferential cash dividend during each Dividend Period commencing on (and including) the Dividend Commencement Date to (but excluding), if applicable, the Applicable Redemption Date in an amount calculated in accordance with this Condition 7.2. Subject to Applicable Law and Condition 7.7 (*Business Day Convention*), such dividend shall fall due for payment in arrears on each Dividend Payment Date and, if applicable, on the Applicable Redemption Date (if the Applicable Redemption Date does not fall on a Dividend Payment Date).

7.2.2 *Dividend Rate in respect of Floating Rate Preference Shares*

The Dividend Rate which is applicable to the Preference Shares for a Dividend Period will be determined on the basis of Screen Rate Determination.

7.2.3 **Screen Rate Determination including fallback provisions**

The Dividend Rate applicable to the Preference Shares for each Dividend Period will be determined by the Calculation Agent on the following basis:

- (a) if the Reference Rate is a composite quotation or customarily supplied by one entity, the Calculation Agent will determine the Reference Rate which appears on the Relevant Screen Page as of the Relevant Time on the relevant Dividend Rate Determination Date); or
- (b) in any other case, the Calculation Agent will determine the arithmetic mean of the Reference Rates which appear on the Relevant Screen Page as of the Relevant Time on the relevant Dividend Rate Determination Date.

If, in the case of paragraph (a) above, such rate does not appear on that page or, in the case of paragraph (b) above, fewer than two such rates appear on that page or if, in either case, the Relevant Screen Page is unavailable, the Calculation Agent will:

- (i) request the principal Johannesburg office of each of the Reference Banks to provide the Calculation Agent with its offered quotation (expressed as a percentage rate per annum) for the Reference Rate at approximately 12h00 (South Africa time) on the Dividend Rate Determination Date in question; and
- (ii) if:
 - (A) 2 (two) or more of the Reference Banks provide the Calculation Agent with such offered quotations, the Reference Rate for such Dividend Period shall be the arithmetic mean (rounded if necessary to the fifth decimal place with 0,00005 being rounded upwards) of such offered quotations, all as determined by the Calculation Agent; or
 - (B) 1 (one) such offered quotation is provided as requested, the Dividend Rate will be rate quoted by the applicable Reference Banks, at approximately 12h00 (South Africa time) on the first day of the relevant Dividend Period for deposits in the Specified Currency to the Reference Banks for a period equal to the relevant Dividend Period and in an amount approximately equal to the Issue Price of the Preference Shares of the relevant Class;

(and the Dividend Rate for such Dividend Period shall be the sum of the Margin and the rate or (as the case may be) the arithmetic mean so determined; provided, however, that if the Calculation Agent is unable to determine a rate or (as the case may be) an arithmetic mean in accordance with the above provisions in relation to any Dividend Period, the Dividend Rate applicable to the Preference Shares during such Dividend Period will be the sum of the Margin and the rate or (as the case may be) the arithmetic mean last determined in relation to the Preference Shares in respect of a preceding Dividend Period.

If a Market Disruption Event occurs in relation to any Dividend Period, then the Calculation Agent shall determine ZAR-JIBAR-SAFEX based on the weighted average of each rate notified to the Calculation Agent by each Preference Shareholder 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. For purposes of this Condition 7.2.3 a “**Market Disruption**” means before close of business in Johannesburg on the quotation date, the cost to a Beneficiary of holding its Preference Shares from whatever source(s) it may reasonably select would be in excess of ZAR-JIBAR-SAFEX.

7.2.4 *Determination of Dividend Rate and calculation of Dividend Amount*

The Calculation Agent will, at or as soon as practicable after each time at which the Dividend Rate is to be determined in relation to each Dividend Period, calculate the Dividend Amount payable in respect of each Preference Share for such Dividend Period. The Dividend Amount will be calculated by applying the Dividend Rate for such Dividend Period to the Issue Price and multiplying the product by the relevant Day Count Fraction, rounding the resultant product to the nearest sub-unit being rounded upwards).

7.2.5 *Calculation of Other Amounts*

If the Applicable Pricing Supplement specifies that any other amount is to be calculated by the Calculation Agent, the Calculation Agent will, as soon as practicable after the time or times at which any such amount is to be determined, calculate the relevant amount. The relevant amount will be calculated by the Calculation Agent in the manner specified in the Applicable Pricing Supplement.

7.2.6 *Publication*

7.2.6.1 The Calculation Agent will cause each Dividend Rate and Dividend Amount determined by it, together with the relevant Dividend Payment Date, and any other amount(s) required to be determined by it, together with any relevant payment date(s) to be notified to the Issuer and the Paying Agent, and the Issuer shall notify any Financial Exchange on which the relevant Floating Rate Preference Shares are for the time being listed and any CSD in which Individual Certificates in respect of the Preference Shares are immobilised, as soon as practicable after their determination but (in the case of each Dividend Rate, Dividend Amount and Dividend Payment Date) in any event not later than (i) where the Dividend Rate is determined with reference to the Prime Rate, the last day of the relevant Dividend Period; (ii) in all other circumstances, the first day of the relevant Dividend Period. Notice thereof shall also promptly be given to the Preference Shareholders in accordance with Condition 20 (*Notices*).

7.2.6.2 The Calculation Agent will be entitled to recalculate any Dividend Amount (on the basis of the foregoing provisions) without notice in the event of an extension or shortening of the relevant Dividend Period. Any such amendment will be promptly notified to the Issuer and to the Preference Shareholders in accordance with Condition 20 (*Notices*) and, if the Preference Shares is listed on the JSE, the Issuer will notify the JSE and the CSD.

7.2.7 *Notifications etc. to be final*

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the Condition 7.2 (*Dividend on Floating Rate Preference Shares*) by the Calculation Agent will (in the absence of wilful default, bad faith or manifest error) be binding on the Issuer, the Paying Agent and the Preference Shareholders and (subject as aforesaid) no liability to any such Person will attach to the Calculation Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions for such purposes.

7.3 **Penalty Preference Dividends**

If specified as being applicable in the Applicable Pricing Supplement and if a Trigger Event occurs, the Issuer shall, in addition to the unpaid Scheduled Preference Dividends, declare and pay the Penalty

Preference Dividend to the Preference Shareholder calculated at the Penalty Dividend Rate calculated with effect from the due date thereof to the earlier of the date of payment by the Issuer of such unpaid amount or the Applicable Redemption Date (if applicable).

7.4 **Refinance Preference Dividends**

- 7.4.1 If specified as being applicable in the Applicable Pricing Supplement and if, pursuant to Condition 12.2 (Early Redemption at the option of the Issuer), the Issuer elects to redeem a Preference Share out of the proceeds of a Refinancing, such Preference Share shall have associated with it the right of the Preference Shareholder registered as such on the date on which such Preference Share is redeemed, to receive and be paid the Refinance Preference Dividend in respect of the Outstanding Preference Shares Obligations that are not Refinanced by that Preference Shareholder, on the Applicable Redemption Date (the “**Refinance Dividend Date**”) of such Preference Share.
- 7.4.2 The Issuer shall not be required to pay a Refinance Preference Dividend on the redemption of a Preference Share to the Preference Shareholder of that Preference Share if:
- 7.4.2.1 that Preference Share is Refinanced by that Preference Shareholder;
- 7.4.2.2 the Issuer Refinanced that Preference Share within 3 months after the Issuer has received notice that it is required to pay an Additional Preference Dividend or that the Dividend Rate increased as a result of the occurrence of an Adjustment Event;
- 7.4.2.3 the Issuer Refinanced that Preference Share 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 Preference Shares becomes more expensive for the Issuer or any of its shareholders by more than 25 (twenty five) basis points; or
- 7.4.2.4 any Financial Indebtedness which the Issuer incurs by issuing further redeemable preference shares (including any Preference Shares issued in terms of the Preference Share Programme after the first Programme Date) in the share capital of the Issuer, provided that the majority of the Preference Shareholders have approved the issue of such redeemable preference shares.

7.5 **Breakage Preference Dividends**

- 7.5.1 If specified as being applicable in the Applicable Pricing Supplement and if, pursuant to Condition 12.2 (Early Redemption at the option of the Issuer), the Issuer intends paying any Scheduled Preference Dividend on a date other than a Dividend Payment Date or redeeming any Preference Share on a date other than the Scheduled Redemption Date, the Issuer shall deliver a written notice to the Preference Shareholders, subject to Condition 7.5.3, no later than 3 (three) Business Days prior to the date on which such Scheduled Preference Dividend or Final Redemption Amount (as applicable) (“**Repayment Amount**”) is intended to be paid, setting out:
- 7.5.1.1 the amount of the Scheduled Preference Dividend and/or the number of Preference Shares to be redeemed; and
- 7.5.1.2 the date (the “**Payment Date**”) on which the Scheduled Preference Dividend and/or the Preference Shares are to be redeemed.
- 7.5.2 The Preference Shareholders shall deliver a notice to the Issuer prior to the Payment Date confirming whether or not the payment of the relevant Scheduled Preference Dividend and/or the redemption of such Preference Shares on the relevant Payment Date will result in any Breakage Cost or Breakage Gain and the amount of thereof and if there is a Breakage Cost, such Preference Share shall have associated with it the right of the Preference Shareholder registered as such on the date on which such Preference Share is redeemed, to receive and be paid a preference dividend (a “**Breakage Preference Dividend**”) in an amount equal to the Breakage Cost.
- 7.5.3 If the Preference Share Agent delivers the notice contemplated in Condition 7.5.2 to the Issuer prior to the Payment Date, confirming that a Breakage Gain is payable on the Payment Date, then the amount of such Breakage Gain shall be applied to reduce the Scheduled Preference Dividends to be paid on the Payment Date by a corresponding amount, grossed up for any tax attributable to the amount of such Breakage Gain.

7.5.4 For so long as any Preference Shares are listed on the JSE, the Issuer will announce the details set out in Condition 7.5.1 and any Breakage Preference Dividend, if any, in the manner prescribed and in accordance with the timeline requirements of the JSE.

7.6 **Accumulated Preference Dividends**

If the Preference Dividends are specified in the Applicable Pricing Supplement as being cumulative, then to the extent that all or any part of a Preference Dividend has accrued or has become payable in accordance with these Terms and Conditions, the Issuer shall be liable to pay, and the Preference Shareholders shall be entitled to be paid, by no later than the Applicable Redemption Date all Preference Dividends that have accrued or become payable in relation to the Preference Shares in accordance with these Terms and Conditions and which have not been paid on the applicable Dividend Payment Dates (“**Accumulated Preference Dividends**”).

7.7 **Business Day Convention**

If any Dividend Payment Date (or other date) which is specified in the Applicable Pricing Supplement to be subject to adjustment in accordance with a Business Day Convention would otherwise fall on a day which is not a Business Day, then, if the Business Day Convention specified the “**Modified Following Business Day Convention**”, such Dividend Payment Date (or other date) shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event such Dividend Payment Date (or other such date) shall be brought forward to the first preceding Business Day; or

7.8 **Payment of Preference Dividends**

7.8.1 Each Preference Dividend that is due and payable shall be paid on its Dividend Payment Date in accordance with the provisions of Condition 13 (Payments).

7.8.2 The Issuer and the Board shall each comply with the requirements of section 46 of the Companies Act in respect of the declaration and payment of each Preference Dividend.

7.8.3 **Preference Shares listed on the JSE**

In respect of any JSE-listed Preference Shares, the Dividend Amount determined by the Calculation Agent, will be announced by the Issuer on SENS at least 3 (three) Business Days before the relevant Dividend Payment Date, or in such manner and within such other time lines as may be required by the JSE Listings Requirements or JSE Debt Listings Requirement, as the case may be.

8. **ENVIRONMENTAL INDEMNITY**

8.1 The Issuer hereby indemnifies each Preference Shareholder, each Affiliate of a Preference Shareholder and each officer, director, employee, agent, advisor, and representative of a Preference Shareholder (together, the “**Indemnified Parties**”) on demand against any losses, claims, damages, liabilities or other costs or expenses suffered or incurred by that Indemnified Party (except to the extent solely caused by such Indemnified Party's own gross negligence or wilful default) as a result of:

8.1.1 any breach of any Environmental Law (whether by the Issuer or any person in which any member of the Group holds any shares);

8.1.2 an Environmental Claim; or

8.1.3 any enquiry, investigation, subpoena (or similar order) or litigation with respect to any Environmental Claim and any other enquiry, investigation, subpoena (or similar order) or litigation in respect of any breach of any Environmental Law that has or is reasonably likely to give rise to a liability for any Preference Shareholder,

which relates to any person in which any member of the Group holds any shares, any assets of such person or the operation of all or part of the business of a member such person and which would not have arisen if the Finance Documents or any of them had not been executed by that Preference Shareholder. Any Indemnified Party may rely on this Condition 8 as a stipulation for its or his benefit, capable of acceptance at any time.

8.2 The Issuer shall not be under this Condition 8 for any indirect, special or consequential damage or loss (including loss of profit).

9. TAX GROSS UP AND FATCA

9.1 Tax Gross-Up

9.1.1 If any Preference Dividend paid or payable by the Issuer in accordance with the Terms and Conditions:

9.1.1.1 is not a "dividend" as defined in section 64D of the Income Tax Act; or

9.1.1.2 is not a "foreign dividend" as defined in section 1 of the Income Tax Act; or

9.1.1.3 is not exempt from income tax under section 10B of the Income Tax Act; or

9.1.1.4 is deemed to be an amount of income as result of the Preference Shares (or any of them) being "hybrid equity instruments" under section 8E of the Income Tax Act; or

9.1.1.5 is deemed to be an amount of income as result of the Preference Shares (or any of them) being "third-party backed shares" under section 8EA of the Income Tax Act,

and without double counting amounts that such Eligible Beneficiary is entitled to pursuant to Condition 10 (Change in circumstances) (each an "**Gross-Up Event**"), then that Eligible Beneficiary shall be entitled, by delivering a written notice (each, a "**Gross-Up Notice**") to the Issuer, to require the Issuer (in which event the Issuer shall be obliged), in addition to that Preference Dividend, to pay to that Eligible Beneficiary, on the date specified in the Gross-Up Notice, an amount equal to the Gross-Up Amount.

9.1.2 If the effect of an Gross-Up Event only becomes apparent or any Eligible Beneficiary, or any shareholder of that Eligible Beneficiary, only become aware of the effects of such Gross-Up Event after all of its Preference Shares have been redeemed, the Issuer shall and hereby does indemnify and hold that Eligible Beneficiary and or any shareholder of that Eligible Beneficiary, harmless against the effect of such Gross-Up Event and, accordingly, shall pay to that Eligible Beneficiary, forthwith on demand, such amount as may be required to place that Eligible Beneficiary and any shareholder of that Eligible Beneficiary in the same after Tax position it would have been in but for the occurrence of such Gross-Up Event. The provisions of this Condition 9 (*Tax Gross Up*) shall survive the redemption of all the Preference Shares and shall remain enforceable against the Issuer by each Eligible Beneficiary until the Final Discharge Date.

9.2 FATCA Information

9.2.1 For purposes of this Condition 9.2 and Condition 9.3 (*FATCA Deduction*), "**Party**" means a Preference Shareholder or the Issuer.

9.2.2 Subject to Condition 9.2.4, each Party shall, within 10(ten) Business Days of a reasonable request by another Party:

9.2.2.1 confirm to that other Party whether it is:

(a) a FATCA Exempt Party; or

(b) not a FATCA Exempt Party;

9.2.2.2 supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and

9.2.2.3 supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.

9.2.3 If a Party confirms to another Party pursuant to Condition 9.2.2.1 that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.

9.2.4 Condition 9.2.1 shall not oblige any Preference Shareholder to do anything, and Condition 9.2.2.3 shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:

9.2.4.1 any law or regulation;

9.2.4.2 any fiduciary duty; or

9.2.4.3 any duty of confidentiality.

9.2.5 If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with Condition 9.2.2.1 or 9.2.2.2 (including, for the avoidance of doubt, where Condition 9.2.4 applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

9.3 **FATCA Deduction**

9.3.1 Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.

9.3.2 Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Issuer and the Preference Shareholders.

10. **CHANGE IN CIRCUMSTANCES**

10.1 **Consequences of the occurrence of an Adjustment Event**

10.1.1 If, in relation to an Eligible Beneficiary (each, an “**Affected Beneficiary**”), at any time after the Programme Date, any event described as an adjustment event in Condition 10.2 (*Adjustment Events*) (each, an “**Adjustment Event**”) occurs that results in an Increased Cost or a reduction in the Return for the Affected Beneficiary or any Holding Company of the Affected Beneficiary which would not have resulted but for the occurrence of that Adjustment Event, then the Affected Beneficiary shall be entitled, by delivering a written notice (each, an “**Adjustment Notice**”) to the Issuer, to require the Issuer in which event the Issuer shall be obliged (in the sole discretion of the Affected Beneficiary) to:

10.1.1.1 forthwith declare and pay on the date specified in the Adjustment Notice (each an “**Additional Dividend Date**”), such amount specified by the Affected Beneficiary in the Adjustment Notice (each an “**Additional Preference Dividend**”); and/or

10.1.1.2 increase the Dividend Rate Percentage, with effect from the date (the “**Adjustment Date**”) specified in the Adjustment Notice (which may be a date earlier than the date of the Adjustment Notice), by such a margin specified by the Affected Beneficiary in the Adjustment Notice,

either:

(a) in the case of the Adjustment Events referred to in Condition 10.2.1 and Condition 10.2.3, as may be necessary to compensate the Affected Beneficiary or any Holding Company of the Affected Beneficiary for the occurrence of that Increased Cost or reduction in Return and place the Affected Beneficiary or any Holding Company of the Affected Beneficiary in the same after-Tax position in respect of the Preference Shares to which the Adjustment Notice applies and/or ensure that the Affected Beneficiary or the Holding Company of the Affected Beneficiary will receive the same Return, in either case as if the relevant Adjustment Event had not occurred; and/or

(b) in the case of the Adjustment Events referred to in Conditions 10.2.2, 10.2.4 and 10.2.5, as determined in accordance with Condition 10.4 (*Specific provisions applicable to certain Adjustment Events*),

provided that if an event occurs which constitutes an Adjustment Event both under Conditions 10.2.1 and Conditions 10.2.2, 10.2.4 or 10.2.5 then the Affected Beneficiary shall be entitled to apply either or both paragraph (a) or paragraph (b) to achieve the same Return it would have achieved had the applicable Adjustment Event not occurred.

- 10.1.2 For so long as any Preference Shares are listed on the JSE, the Issuer will announce the details of the consequences of any Adjustment Event pursuant to this Condition 10.1 and/or a redemption on the occurrence of an Adjustment Event pursuant to Condition 10.3 (*Redemption on occurrence of an Adjustment Event*), if any, on SENS in the manner prescribed and in accordance with the timeline requirements of the JSE.

10.2 Adjustment Events

An "Adjustment Event" shall occur if:

- 10.2.1 there is any change in Applicable Law or in the interpretation or general application thereof, or the introduction of any new Applicable Law;
- 10.2.2 the Affected Beneficiary ceases to be exempt from Dividends Tax, or after the Affected Beneficiary ceases to be exempt the applicable rate at which Dividends Tax is levied is increased;
- 10.2.3 for so long as the Affected Beneficiary or any Holding Company of the Affected Beneficiary, as the case may be, is a bank duly registered as such in accordance with the Banks Act, or is otherwise subject to regulation under the Banks Act, or is a financial institution duly registered as such with any statutory or monetary authority, or is a Subsidiary of such bank or financial institution, there is any:
- 10.2.3.1 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 Programme Date;
- 10.2.3.2 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;
- 10.2.3.3 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;
- 10.2.3.4 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 Affected Beneficiary or any Holding Company of the Affected Beneficiary, as the case may be, as at the Programme Date; or
- 10.2.3.5 compliance by the Affected Beneficiary or any Holding Company of the Affected Beneficiary, as the case may be, 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 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 Programme Date,
- which is applicable to that bank, financial institution or Subsidiary, as the case may be; or
- 10.2.4 any Tax becomes payable by the Affected Beneficiary or for which the Affected Beneficiary is or becomes liable on, or in respect of the Preference Shares (including as a result of the subscription for, the holding of and/or the funding of the Preference Shares), any Preference Dividend or any amount payable on the redemption of any Preference Share, whether before or after redemption of the Preference Shares; or
- 10.2.5 there is any increase or decrease in the Corporate Tax Rate.

10.3 Redemption on occurrence of an Adjustment Event

- 10.3.1 In circumstances where the Issuer receives a Gross-up Notice,:

10.3.1.1 the Issuer shall be entitled to redeem –

- (a) the Preference Shares held by each Beneficiary (each an "**Affected Beneficiary**") requiring any Additional Preference Dividends or an adjustment to the Dividend Rate Percentage, provided that all the Affected Beneficiaries hold, in aggregate, less than $\frac{1}{3}$ (one third) of the Unredeemed Preference Shares; or
- (b) all the Preference Shares held by each Affected Beneficiaries which requires Additional Preference Dividends or an adjustment to the Dividend Rate Percentage by more than 25 (twenty five) basis points,

failing which, the Issuer shall pay the Additional Preference Dividends or adjust the Dividend Rate Percentage;

10.3.2 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 Preference Shares of the Affected Beneficiary;

10.3.3 a Redemption Notice shall be revocable at the instance of the Issuer and shall not oblige the Issuer to redeem any Unredeemed Preference Share whether on the redemption date set out in that Redemption Notice or on any other date;

10.3.4 if, pending redemption by the Issuer of the Affected Beneficiary's Preference Shares, the Affected Beneficiary transfers some or all of its Preference Shares or fails to present the Preference Shares in accordance with Condition 10.3.3, the Gross-up Notice and the Redemption Notice, shall in respect of the 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 Preference Dividends or adjust the Dividend Rate Percentage (as the case may be), or (2) to redeem the Preference Shares so transferred or not presented.

10.4 **Specific provisions applicable to certain Adjustment Events**

10.4.1 The Issuer agrees that the provisions of this Condition 10.4 will apply in respect of the Adjustment Events contemplated in Conditions 10.2.2, 10.2.4 and 10.2.5, notwithstanding anything to the contrary contained in this Condition 10.

10.4.2 If any Adjustment Event described in Condition 10.2.2 or Condition 10.2.4 occurs:

10.4.2.1 the Additional Preference Dividend payable by the Issuer as a consequence of the occurrence of that Adjustment Event shall be an amount such that the Affected Beneficiary will receive a net after-Tax amount equal to the amount which would otherwise have been receivable by the Affected Beneficiary in the absence of the occurrence of any such Adjustment Event; or

10.4.2.2 the Dividend Rate Percentage shall be increased, with effect from the Adjustment Date specified in the Adjustment Notice (which may be a date earlier than the date of the Adjustment Notice), specified by the Affected Beneficiary in the Adjustment Notice, by such percentage as will ensure that the Affected Beneficiary will receive a net after-Tax Preference Dividend equal to the Preference Dividend which would otherwise have been receivable by the Affected Beneficiary in the absence of the occurrence of any such Adjustment Event.

10.4.3 If any Adjustment Event described in Condition 10.2.5 occurs the new Dividend Rate Percentage will be calculated in accordance with the following formula and accordingly the new Dividend Rate Percentage will be:

$$\text{NDR} = \text{ODR} \times (1 - \text{NCTR}) / (1 - \text{OCTR})$$

Where:

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

- ODR = the Dividend Rate Percentage applicable to the Preference Shares immediately prior to the occurrence of such Adjustment Event expressed as a percentage;
- NCTR = the new Corporate Tax Rate applicable pursuant to such Adjustment Event., and
- OCTR = the Corporate Tax Rate applicable immediately prior to the occurrence of such Adjustment Event.

The new Dividend Rate Percentage determined in accordance with this Condition 10.4.3 shall be applied retrospectively, to the extent required to achieve the same Return it would have achieved had the applicable Adjustment Event not occurred, in re-calculating, mutatis mutandis all Scheduled Preference Dividends that have accrued in respect of each Unredeemed Preference Share during the current and all preceding Dividend Periods and which have not been paid to the Preference Shareholder of such Unredeemed Preference Share.

- 10.4.4 Without double counting, if any amount payable to the Affected Beneficiary pursuant to the provisions of Condition 10.4.2 or Condition 10.4.3 is subject to Tax, then the Issuer shall pay such additional amounts to the Affected Beneficiary so as to place the Affected Beneficiary or any Holding Company of the Affected Beneficiary in a position as if no such Tax was payable.

10.5 **Disputes**

- 10.5.1 If the Issuer disputes the correctness of any calculation in an Adjustment Notice, the occurrence of an Adjustment Event, the effect of the occurrence of an Adjustment Event or the Affected Beneficiary's calculation in terms of Condition 10.4 (*Specific provisions applicable to certain Adjustment Events*) a certificate by the auditors of the Affected Beneficiary's or any Holding Company of the Affected Beneficiary's shall, in the absence of manifest error, be *prima facie* proof of the correctness of such calculation.
- 10.5.2 The Issuer shall only be entitled to raise any such dispute in writing for a period of 30 (thirty) Business Days after delivery to the Issuer of the relevant Adjustment Notice.

10.6 **Post-Redemption Payment**

If the effect of an Adjustment Event in respect of a Beneficiary only becomes apparent or the erstwhile Beneficiary (the "**Indemnified Party**") only becomes aware of the effects of such Adjustment Event after such Preference Share has been redeemed or transferred, the Issuer shall and hereby does indemnify and hold that Indemnified Party harmless against the effect of such Adjustment Event and, accordingly, shall pay to the Indemnified Party, on demand, such amount as may be required to place that Indemnified Party or any Holding Company of that Indemnified Party in the same after-Tax position as it would have been in had the Adjustment Event not occurred. The provisions of this Condition 10.6 shall survive the redemption or transfer of the Preference Shares and shall remain enforceable against the Issuer by each Indemnified Party until the Final Discharge Date.

11. **TRANSFER TAXES**

The Issuer is not liable for any Taxes that may arise as a result of the transfer of any Preference Share or any Beneficial Interest therein.

12. **REDEMPTION AND PURCHASE**

A Class of Preference Shares shall be redeemed on the Final Redemption Date in accordance with Condition 12.1 (*Final Redemption Date*). The Preference Shares may, or upon the occurrence of a Trigger Event as set out in Condition 15 (*Trigger Events*) will, be redeemed prior to the Final Redemption Date in accordance with this Condition 12.

12.1 **Final Redemption Date**

Unless previously redeemed or purchased and cancelled as specified below, the Issuer shall redeem Preference Shares without penalty on the Final Redemption Date at the Final Redemption Amount, or in the manner specified in the Applicable Pricing Supplement, subject to Condition 13 (*Payments*).

12.1A Scheduled Redemption

- 12.1A.1 The Issuer shall be obliged, to apply all amounts standing to the credit of the Reserve Account on the 3rd (third) Business Day after the expiry of the Restricted Period, taking into account any STT, towards the redemption of such number of Unredeemed Preference Shares as can be redeemed at that time using such amounts.
- 12.1A.2 The Issuer shall, by each Scheduled Redemption Date, be obliged to redeem (to the extent that same have not already been redeemed) such number of Preference Shares (if any) as may be required to ensure that the aggregate number of Preference Shares that have been redeemed by the Issuer is at least equal to the Scheduled Preference Shares set out opposite such Scheduled Redemption Date.
- 12.1A.3 If any Preference Shares are redeemed in accordance with these Conditions prior to the Scheduled Redemption Dates set out in the defined term "*Scheduled Redemption Date*", the number of Preference Shares to be redeemed on each subsequent Scheduled Redemption Date will be reduced *pro rata*.

12.2 Early Redemption at the option of the Issuer

- 12.2.1 The Preference Shares may be redeemed at the option of the Issuer in accordance with the provisions and procedure set out in this Condition 12.2.

- 12.2.2 If the Issuer elects to voluntarily redeem any Preference Shares, the Issuer shall give:

- (a) not more than 10 (ten) Business Days' notice to the Preference Shareholders, in accordance with Condition 20 (*Notices*), subject to Condition 12.2.3, setting out:
 - (i) the number of the Preference Shares to be redeemed; and
 - (ii) the nature of the proceeds that are being applied to effect the optional redemption;
- (b) not less than 7 (seven) days before giving the notice referred to in (a) above, notice to the Transfer Agent, and

to redeem all or some of the Unredeemed Preference Shares on the Early Redemption Date(s) specified in, or determined in the manner specified in, the Applicable Pricing Supplement. Any notice in terms of this Condition 12.2.2 shall be revocable at the election of the Issuer and shall not oblige the Issuer to redeem any Unredeemed Preference Share whether on the Early Redemption Date set out in such notice or on any other date. If the Issuer delivers any notice in terms of this Condition 12.2.2 and thereafter elects not to redeem the Unredeemed Preference Shares the Issuer shall (i) make an announcement to such effect on SENS by the Voluntary Redemption Date set out in the Redemption Announcement, and (ii) not thereafter be entitled to redeem the Unredeemed Preference Shares voluntarily without again delivering the notices contemplated in this Condition 12.2.2.

- 12.2.3 Any notice in terms of Condition 12.2.2 in respect of JSE-listed Preference Shares, shall be made by way of an announcement on SENS, in the manner prescribed and in accordance with the timeline requirements of the JSE,

- 12.2.4 The Issuer shall, at any time, be entitled (but not obliged), to voluntarily redeem any Unredeemed Preference Shares, provided that:

12.2.4.1 if the Issuer proposes to redeem any Unredeemed Preference Shares from the proceeds of a Refinancing, the Issuer shall be obliged to redeem all (and not less than all) of the Unredeemed Preference Shares); and

12.2.4.2 in circumstances other than where a voluntary redemption is to be effected using the proceeds of a Refinancing, subject to Condition 12.11 (*Procedure for Redemptions*), the number of Preference Shares so redeemed shall be the minimum specified in the Applicable Pricing Supplement.

- 12.2.5 In the case of a partial redemption of Preference Shares, the Preference Shares to be redeemed (“**Relevant Preference Shares**”) will be selected:
- (a) in the case of Relevant Preference Shares represented by Individual Certificates, individually by lot; and
 - (b) in the case of Relevant Preference Shares issued in uncertificated form, in accordance with the Applicable Procedures,
- and in each such case not more than 10 (ten) Business Days prior to the date selected for redemption (such date of selection being hereinafter called the “**Selection Date**”).
- 12.2.6 A list of the serial numbers of the Individual Certificates will be published in accordance with Condition 20 (*Notices*) prior to the date selected for redemption.
- 12.2.7 No exchange of Beneficial Interests in uncertificated Preference Shares for Individual Certificates will be permitted during the period from and including the Last Day to Register to and including the date selected for redemption pursuant to this Condition 12.2 and notice to that effect shall be given by the Issuer to the Preference Shareholders in accordance with Condition 20 (*Notices*).
- 12.2.8 Holders of Relevant Preference Shares shall surrender the Individual Certificates (if any) relating to the Preference Shares in accordance with the provisions of the notice given to them by the Issuer as contemplated above. Where only a portion of the Preference Shares represented by such Individual Certificates (as applicable) are redeemed, the Transfer Agent shall deliver new Individual Certificates (as applicable) to such Preference Shareholders in respect of the balance of the Preference Shares.

12.3 **Early Redemption following an Illegality Event**

If, at any time, it is or becomes illegal or unlawful for a Preference Shareholder (a “**Relevant Holder**”) to perform any of its obligations as contemplated by the Terms and Conditions or to hold the Preference Shares it holds or to claim and recover all or any part of a Preference Dividend or a Final Redemption Amount (an “**Illegality Event**”):

- 12.3.1 the Relevant Holder shall, promptly upon becoming aware of the same, notify the Issuer in accordance with Condition 20 (*Notices*); and
- 12.3.2 if the Relevant Holder fails to remove or rectify such Illegality Event (provided such Illegality Event is capable of being removed or rectified), or agree alternative acceptable provisions with the Issuer within 10 (ten) Business Days (or such longer period as may be agreed in the circumstances) of the date (“**Illegality Notification Date**”) on which the Relevant Holder notifies the Issuer of the Illegality Event, the Relevant Holder shall be entitled, by written notice to the Issuer in accordance with Condition 20 (*Notices*), to require the Issuer to redeem all of the Relevant Holder's unredeemed Preference Shares no earlier than 30 (thirty) Business Days (or such shorter period as may be required by Applicable Laws) after the Illegality Notification Date for the aggregate Final Redemption Amount in respect of such Unredeemed Preference Shares.

12.4 **Early Redemption following a Trigger Event**

Upon the occurrence of a Trigger Event which is continuing and receipt by the Issuer of an Early Redemption Notice pursuant to Condition 15.3, requiring the Preference Shares held by the relevant Preference Shareholder(s) to be forthwith redeemable in accordance with Condition 15 (*Trigger Events*), such Preference Shares shall become forthwith redeemable at the Early Redemption Amount in the manner set out in Condition 12.5 (*Early Redemption Amounts*) or the amount as specified in the Applicable Pricing Supplement, together with dividends (if any) to the date of payment, in accordance with Condition 15 (*Trigger Events*).

12.5 **Early Redemption Amounts**

- 12.5.1 For the purpose of Condition 12.4 (*Early Redemption following a Trigger Event*) (and otherwise as stated herein), the Preference Shares will be redeemed at the Early Redemption Amount calculated as follows:
 - (a) in the case of Preference Shares with a Final Redemption Amount equal to the Issue Price, at the Final Redemption Amount thereof; or

- (b) in the case of Preference Shares with a Final Redemption Amount which is or may be less or greater than the Issue Price (to be determined in the manner specified in the Applicable Pricing Supplement), at that Final Redemption Amount or, if no such amount or manner is so specified in the Applicable Pricing Supplement, at their Issue Price.

12.5.2 Where such calculation is to be made for a period which is not a whole number of years, it shall be calculated on the basis of actual days elapsed divided by 365 (three hundred and sixty five), or such other calculation basis as may be specified in the Applicable Pricing Supplement.

12.6 Purchases

12.6.1 The Issuer or any of its subsidiaries or any subsidiaries of its holding company may, at any time, subject to the Companies Act, purchase Preference Shares at any price in the open market or otherwise.

12.6.2 The Issuer is not obliged to undertake any market making in respect of the Preference Shares save to the extent required by the applicable Financial Exchange or the listings requirements of such Financial Exchange.

12.7 Cancellation

All Preference Shares which are redeemed or purchased by the Issuer or any of its subsidiaries or any subsidiaries of its holding company may, at its option, be cancelled and may, if cancelled, not be reissued or resold. Where only a portion of Preference Shares represented by a Certificate are cancelled, the Transfer Agent shall deliver an Individual Certificate to such Preference Shareholder in respect of the balance of the Preference Shares. Upon receipt of the Redemption Amount, the Preference Shareholder shall have no further rights against the Issuer in respect of the Preference Shares so redeemed or arising out of any subscription agreement entered into between the Issuer and that Preference Shareholder in respect of such Preference Shares, save as provided for in Condition 10.6 (*Post-Redemption Payment*).

12.8 Cessation of Preference Dividends

To the extent applicable, each Preference Share will cease to bear dividends from the Applicable Redemption Date unless, upon due presentation thereof, payment of the Applicable Redemption Amount, or any portion thereof, due and payable on the Applicable Redemption Date or payment of dividends, or any portion thereof, due and payable on a Dividend Payment Date, as the case may be, is improperly withheld or refused or such payment may not, in terms of the Companies Act, be made. In circumstances where such non-payment does not constitute a Trigger Event contemplated in Condition 15 (*Trigger Events*), dividends will continue to accrue on the outstanding amount due and payable in respect of such Preference Share, at the Dividend Rate, from and including the Applicable Redemption Date or the relevant Dividend Payment Date, as the case may be, to but excluding the date on which such amounts are paid.

12.9 Applicable Procedures

The redemption and partial redemption of Beneficial Interests shall take place in accordance with the Applicable Procedures and the Financial Markets Act.

12.10 Preference Shares listed on the JSE

In respect of any JSE-listed Preference Shares, the details of any redemption or partial redemption will be announced on SENS in such manner and within such time lines as may be required by JSE Debt Listings Requirement.

12.11 Procedure for Redemptions

12.11.1 Subject to the provisions of Applicable Law:

- 12.11.1.1 the Board shall, on or before the Applicable Redemption Date, apply the Solvency and Liquidity Test and if the Board is reasonably satisfied that the Issuer will satisfy the Solvency and Liquidity Test immediately after paying all unpaid Preference Dividends and the aggregate Final Redemption Amount in respect of each Preference Share being redeemed, the Board shall, on or before the Applicable Redemption Date, pass a resolution acknowledging that the Board has applied the Solvency and Liquidity Test and has reasonably

concluded that the Issuer will satisfy the Solvency and Liquidity Test immediately after paying all unpaid Preference Dividends and the aggregate Final Redemption Amount in respect of each Preference Share being redeemed;

12.11.1.2 the Issuer shall, on the Applicable Redemption Date, pay, in respect of each Preference Share being redeemed, all unpaid Preference Dividends; and

12.11.1.3 the Issuer shall, on the Applicable Redemption Date, redeem the relevant Preference Shares for, and by paying, the aggregate Final Redemption Amount in respect of all of the Preference Shares being redeemed.

12.11.2 If the Issuer decides to voluntarily redeem any Preference Shares, the Preference Shares held by each Preference Shareholder shall be redeemed in the proportion that the Preference Shares held by that Preference Shareholder bears to the total number of Unredeemed Preference Shares.

12.11.3 The Issuer shall be liable for any STT and/or any other similar duty, cost and/or penalty which may be or become payable by the Issuer and/or a Preference Shareholder in respect of the redemption of any Preference Shares for any reason. To the extent that any Preference Shareholder becomes liable to pay such STT and/or any other similar duty, cost and/or penalty, the Issuer shall pay to the relevant Preference Shareholder on demand an amount equal to such STT and/or other similar duty, cost and/or penalty paid by that Holder and the Issuer hereby indemnifies and holds that Preference Shareholder harmless accordingly.

12.11.4 Upon redemption of any of a Preference Shareholder's Preference Shares, that Preference Shareholder shall, against receipt of payment, surrender its share certificate in respect of such Preference Shares to the Issuer and against such surrender, (or, if such certificate(s) has/have been lost or destroyed, such proof of loss or destruction and such indemnity as the Issuer is entitled to require in terms of Condition 16.2), unless all of the Preference Shares of that Holder have been redeemed, the Issuer shall (to the extent necessary) issue a share certificate(s) to that Holder in respect of those Preference Shares held by that Holder which were not redeemed within five Business Days of such surrender or provision of such indemnity, as the case may be.

13. PAYMENTS

13.1 General

13.1.1 Only Preference Shareholders named in the Register at 17h00 (South Africa time) on the relevant Last Day to Register shall be entitled to payment of amounts due and payable in respect of Preference Shares.

13.1.2 All payments of all amounts (whether in respect of dividends or otherwise) due and payable in respect of any Preference Shares shall be made by the Issuer (where the Issuer itself acts as Paying Agent) or the Paying Agent on behalf of the Issuer (where the Issuer has appointed a third party to act as Paying Agent), as the case may be, on the terms and conditions of an agency agreement (if any) and this Condition 13.

13.1.3 All references in this Condition 13 to "*Paying Agent*" shall be construed as references to the Issuer (where the Issuer itself acts as Paying Agent) or the Paying Agent on behalf of the Issuer (where the Issuer has appointed a third party entity to act as Paying Agent), as the case may be.

13.1.4 Payments will be subject in all cases to any fiscal or other laws, directives and regulations applicable thereto in the place of payment, but without prejudice to the provisions of Condition 11 (*Transfer Taxes*).

13.2 Payment of all amounts due and payable in respect of Preference Shares

13.2.1 The Paying Agent shall pay all amounts due and payable in respect of any Preference Shares:

13.2.1.1 in the case of Preference Shares which are held in the CSD, in immediately available and freely transferable funds, in the Specified Currency, by electronic funds transfer to the bank account of the CSD, as the registered Preference Shareholder of such Preference Shares, which in turn will transfer such funds, via the Participants, to the holders of Beneficial Interests in such Preference Shares.

13.2.1.2 in the case of Preference Share(s) which are represented by an Individual Certificate, in immediately available and freely transferable funds, in the Specified Currency, by electronic funds transfer, to the bank account of the Person named as the registered Preference Shareholder of such Preference Shares in the Register or, in the case of joint registered Preference Shareholders, the bank account of the first one of them named in the Register in respect of such Preference Shares; provided that if several Persons are entered into the Register as joint registered Preference Shareholders of such Preference Shares then, without affecting the previous provisions of this Condition 13, payment to any one of them shall be an effective and complete discharge by the Issuer of the amount so paid, notwithstanding any notice (express or otherwise) which the Paying Agent and/or the Issuer may have of the right, title, dividend or claim of any other Person to or in any such Preference Shares.

13.2.2 Neither the Issuer nor the Paying Agent shall be responsible for the loss in transmission of any such funds, and payment of any amount into the bank accounts referred to above, in accordance with this Condition 13, shall be satisfaction *pro tanto*, to the extent of such amount, of the Issuer's obligations to the Preference Shareholders under the relevant Preference Shares and the applicable Terms and Conditions.

13.3 **Beneficial Interest**

13.3.1 Following payment to the CSD of amounts due and payable in respect of Preference Shares which are held in the CSD, the relevant funds will be transferred by the CSD, via the Participants, to the holders of Beneficial Interest in such Preference Shares.

13.3.2 Each of the Persons reflected in the records of the CSD or the relevant Participant, as the case may be, as the holders of Beneficial Interests in Preference Shares, will look solely to the CSD or the relevant Participants, as the case may be, for such Person's share of each payment so made by the Paying Agent, on behalf of the Issuer, to or for the order of the CSD, as the registered Preference Shareholder of such reference Shares.

13.3.3 Neither the Paying Agent nor the Issuer will have any responsibility or liability for any aspect of the records relating to, or payments made on account of, Beneficial Interests or for maintaining, supervising or reviewing any records relating to Beneficial Interests.

13.3.4 Payments of amounts due and payable in respect of Beneficial Interests in Preference Shares will be recorded by the CSD, as the registered holder of such Preference Shares, distinguishing between dividends and the Applicable Redemption Amount, and such record of payments by the CSD, as the registered Preference Shareholder of such Preference Shares, will be *prima facie* proof of such payments.

13.4 **Method of Payment**

13.4.1 Payments of dividends and the Applicable Redemption Amount will be made in the Specified Currency by electronic funds transfer.

13.4.2 If the Issuer is prevented or restricted directly or indirectly from making any payment by electronic funds transfer in accordance with the preceding Condition (whether by reason of strike, lockout, fire, explosion, floods, riot, war, accident, act of God, embargo, legislation, shortage of or breakdown in facilities, civil commotion, unrest or disturbances, cessation of labour, Government interference or control or any other cause or contingency beyond the control of the Issuer), the Issuer shall make such payment by cheque (or by such number of cheques as may be required in accordance with applicable banking law and practice) of any such amounts. Such payments by cheque shall be sent by post to the address of the Preference Shareholder as set forth in the Register or, in the case of joint Preference Shareholders, the address set forth in the Register of that one of them who is first named in the Register in respect of that Preference Share.

13.4.3 Each such cheque shall be made payable to the relevant Preference Shareholder or, in the case of joint Preference Shareholders, the first one of them named in the Register. Cheques may be posted by ordinary post, provided that neither the Issuer nor the Paying Agent shall be responsible for any loss in transmission and the postal authorities shall be deemed to be the agent of the Preference Shareholders for the purposes of all cheques posted in terms of this Condition 13.4.

- 13.4.4 In the case of joint Preference Shareholders payment by electronic funds transfer will be made to the account of the Preference Shareholder first named in the Register. Payment by electronic transfer to the Preference Shareholder first named in the Register shall discharge the Issuer of its relevant payment obligations under the Preference Shares.
- 13.4.5 Payments will be subject in all cases to any taxation or other laws, directives and regulations applicable thereto in the place of payment, but subject to the provisions of Condition 11 (*Transfer Taxes*).

13.5 **Surrender of Individual Certificates**

- 13.5.1 Payments of the Applicable Redemption Amount in respect of any Preference Share(s) which is/are represented by Individual Certificate(s) shall be made to the Preference Shareholder(s) of such Preference Share(s) only if, prior to the date on which the relevant Preference Shares are redeemed, such Individual Certificate(s) shall have been surrendered to the Transfer Agent at its Specified Office.
- 13.5.2 If the relevant Individual Certificate is not surrendered to the Transfer Agent at its Specified Office in accordance with this Condition 13.5, the Applicable Redemption Amount payable to the Preference Shareholder of the Preference Share(s) represented by that Individual Certificate shall be retained by the Paying Agent for such Preference Shareholder, at the latter's risk, until that Individual Certificate shall have been surrendered to the Transfer Agent at its Specified Office, and such Preference Shareholder will not be entitled to any dividends and/or other payments in respect of any delay in payment occasioned as a result of such failure to surrender such Individual Certificate.
- 13.5.3 No payment in respect of the final redemption of a Preference Share shall be made until 10 (ten) days after the date on which the Individual Certificate (if applicable) in respect of the Preference Share to be redeemed has been surrendered to the Paying Agent.
- 13.5.4 Documents required to be presented and/or surrendered to the Paying Agent in accordance with these Terms and Conditions shall be so presented and/or surrendered at the office of the Paying Agent specified in the Applicable Pricing Supplement.
- 13.5.5 Holders of Uncertificated Preference Shares are not required to present and/or surrender any documents of title.

13.6 **Payment Day**

If the date for payment of any amount in respect of any Preference Share is not a Business Day and is not subject to adjustment in accordance with a Business Day Convention, the holder thereof shall not be entitled to payment until the next following Payment Day in the relevant place for payment and shall not be entitled to further dividends or other payment in respect of any such delay.

14. **PRESCRIPTION**

Subject to Condition 10.6 (*Post-Redemption Payment*) and Applicable Law, any claim for payment of any amount in respect of the Preference Shares and the applicable Terms and Conditions will prescribe three years after the date on which such amount first becomes due and payable under the applicable Terms and Conditions, provided that if payment of such amount is required, in accordance with the applicable Terms and Conditions, to be made to the CSD, any claim for payment of such amount will prescribe three years after the date on which such amount has been received by the CSD.

15. **TRIGGER EVENTS**

- 15.1 Unless otherwise specified in the Applicable Pricing Supplement, a Trigger Event in respect of a Class of Preference Shares shall arise if any one or more of the following events have occurred and be continuing:
- 15.1.1 the Issuer fails to pay any amount due under the Preference Shares on its due date for payment unless such non- payment is caused by an administrative error or technical difficulties affecting the transfer of funds and is remedied within 3 (three) Business Days after the due date;
- 15.1.2 the Issuer fails to, for any reason whatsoever, either redeem the Preference Shares on the Applicable Redemption Date or pay the Applicable Redemption Amount per Preference Share on the date on which such payment is to be made; or

- 15.1.3 the Issuer fails to perform or observe any of its other obligations under any of the Preference Shares and such failure has continued for the period of 10 (ten) days following the service of the Issuer of a written notice requiring that breach to be remedied. (For these purposes, a failure to perform or observe an obligation shall be deemed to be remediable notwithstanding that the failure results from not doing an act or thing by a particular time); or
- 15.1.4 the Issuer fails to obtain any consent, license, approval or authorisation now or hereafter necessary to enable the Issuer to comply with its obligations under the Programme or any such consent, license, approval or authorisation ceases to remain in full force and effect, resulting in the Issuer being unable to perform any of its obligations under the Preference Shares or the Programme; or
- 15.1.5 the granting of an order by any competent court or authority for the liquidation winding-up, dissolution of, or commencement of business rescue proceedings in respect of, the Issuer, whether provisionally (and not dismissed or withdrawn within 14 (fourteen) days thereof) or finally, or the placing of the Issuer under voluntary liquidation or curatorship; or
- 15.1.6 any other Trigger Event specified in the Applicable Pricing Supplement; or

15.1.7 Solvency and Liquidity Test

On or before each Dividend Payment Date in respect of the payment of any Preference Dividend by the Issuer and/or each Applicable Redemption Date in respect of the payment of any Final Redemption Amount by the Issuer:

- 15.1.7.1 the Board fails to apply the Solvency and Liquidity Test to determine whether after payment of the relevant Distribution the Issuer will satisfy the Solvency and Liquidity Test for any reason whatsoever; or
- 15.1.7.2 the Board applies the Solvency and Liquidity Test in respect of the applicable Distribution and is satisfied that after payment of such Distribution the Issuer will satisfy the Solvency and Liquidity Test but the Board fails to pass a resolution acknowledging that the Board has applied the Solvency and Liquidity Test and has reasonably concluded that the Issuer will satisfy the Solvency and Liquidity Test immediately after paying the relevant Distribution for any reason whatsoever.

15.1.8 Non-Reserving, Non-Redemption and Non-Payment

- 15.1.8.1 The failure by the Issuer for any reason whatsoever to pay any Scheduled Reserve Amount on the relevant Scheduled Reserve.
- 15.1.8.2 The failure by the Issuer to redeem any Scheduled Preference Share on their Scheduled Reserve Date.
- 15.1.8.3 The failure by the Issuer to pay any amount due under the Preference Shares on its due date for payment.

15.1.9 Financial Covenants

Any requirement of Condition 32 (Financial Covenant) is not satisfied and is not restored in the manner contemplated in Condition 32.2 (Equity Cure) within 4 (four) Business Days of receipt of written notice from the Preference Share Agent calling upon the Issuer to remedy same.

15.1.10 Misrepresentation

Any representation or statement made or deemed to be made by the Issuer in the Finance Documents or any other document delivered by or on behalf of the Issuer under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made and such event is not remedied within 4 (four) Business Days of the Preference Share Agent giving written notice to the Issuer.

15.1.11 Cross Default

- 15.1.11.1 Any Indebtedness of a Material Company is not paid when due nor within any originally applicable grace period.

- 15.1.11.2 Any Indebtedness of a Material Company is declared to be or otherwise becomes due and payable prior to its specified maturity in each case as a result of an event of default (however described).
- 15.1.11.3 Any commitment for any Indebtedness of a Material Company is cancelled or suspended by a creditor of a Material Company as a result of an event of default (however described).
- 15.1.11.4 Any creditor of a Material Company becomes entitled to declare any Indebtedness of a Material Company due and payable prior to its specified maturity as a result of an event of default (however described).
- 15.1.11.5 No Trigger Event under Conditions 15.1.11.1 to 15.1.11.4 will occur if the aggregate amount of Indebtedness or commitment for Indebtedness falling within Conditions 15.1.11.1 to 15.1.11.4 in respect of Tradegro is less than £25,000 (twenty five thousand Pounds Sterling).

15.1.12 **Insolvency**

- 15.1.12.1 A Material Company:
 - 15.1.12.1.1 is unable or admits inability to pay its debts as they fall due;
 - 15.1.12.1.2 is deemed or is declared for the purposes of any applicable law to be unable to pay its debts as they fall due;
 - 15.1.12.1.3 suspends or threatens to suspend making payments on any of its debts; or
 - 15.1.12.1.4 by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- 15.1.12.2 The value of the assets of any Material Company is less than its liabilities (taking into account contingent and prospective liabilities).
- 15.1.12.3 A moratorium is declared in respect of any indebtedness of any Material Company.

15.1.13 **Insolvency Events**

An Insolvency Event occurs in relation to a Material Company.

15.1.14 **Creditors' Process**

- 15.1.14.1 Subject to Condition 15.1.14.2, any expropriation, attachment, sequestration, distress or execution affects any asset or assets of a Material Company.
- 15.1.14.2 No Trigger Event under Condition 15.1.14.1 will occur, if the expropriation, attachment, sequestration, distress or execution is in respect of an asset or assets of a Material Company (other than the Issuer) is discharged within 30 (thirty) days.

15.1.15 **Unlawfulness**

- 15.1.15.1 It is or becomes unlawful for the Issuer to perform any of its obligations under the Finance Documents.
- 15.1.15.2 An obligation or obligations of the Issuer under any Finance Document to which it is a party are not or cease to be legal, valid, binding or enforceable.
- 15.1.15.3 Any Finance Document ceases to be in full force and effect or alleged to be ineffective by a party to it (other than a Preference Shareholder).

15.1.16 **Cessation of Business**

A Material Company suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business.

15.1.17 **Expropriation**

The authority or ability of any Material Company to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to any Material Company or any of its assets.

15.1.18 **Repudiation**

15.1.18.1 The Issuer repudiates or purports to rescind or repudiate a Finance Document or evidences an intention to repudiate a Finance Document.

15.1.18.2 Any party to a Transaction Agreement (other than any party who is a Preference Shareholder) repudiates or purports to rescind or repudiate a Transaction Agreement or evidences an intention to repudiate a Finance Agreement.

15.1.19 **Material Adverse Change**

Any Material Adverse Change occurs.

15.1.20 **Compulsory purchase**

Any part of any Property is compulsorily purchased or the applicable local authority makes an order for the compulsory purchase of all or any part of any Property and in the opinion of the Preference Share Agent, taking into account the amount and timing of any compensation payable, the compulsory purchase has or will have a Material Adverse Change.

15.1.21 **Major damage**

Any part of any Property is destroyed or damaged and in the opinion of the Preference Share Agent, taking into account the amount and timing of receipt of the proceeds of insurance effected in accordance with these Terms and Conditions, the destruction or damage has or will have a Material Adverse Change.

15.1.22 **Listings Committee Suspension of Trading**

15.1.22.1 The listings committee of the JSE or any other applicable regulatory authority publishes any notice of its intention to suspend or discontinue the listing of the shares in the Issuer.

15.1.22.2 Trading in the shares in the Issuer is suspended for any reason (other than a general suspension of trading on the JSE) for a period of 2 (two) Business Days.

15.1.23 **Environmental Matters**

15.1.23.1 Any person in which any member of the Group holds any shares fails to:

15.1.23.1.1 comply with all Environmental Law;

15.1.23.1.2 obtain, maintain and ensure compliance with all requisite Environmental Permits; and

15.1.23.1.3 implement procedures to monitor compliance with and to prevent liability under any Environmental Law,

where failure to do so has a Material Adverse Change or result in a financial liability for a Preference Shareholder or the Issuer.

15.1.23.2 Any Environmental Claim is commenced against person in which any member of the Group holds any shares where that claim has or is reasonably likely, if determined against that person, to result in a Material Adverse Change or is reasonably likely to result in any liability for a Preference Shareholder or the Issuer.

15.1.24 **Transaction Agreements**

The following agreement are not executed and delivered to the Preference Share Agent or to third parties agreed by the Preference Share Agent within one Business Day of the Issue Date:

15.1.24.1 each Transaction Agreement;

- 15.1.24.2 each Release Document;
 - 15.1.24.3 a legal opinion of Walker Morris LLP, substantially in the form distributed to, and agreed by, the Preference Share Agent in connection with the Transaction Agreements;
 - 15.1.24.4 a legal opinion of MPartners, substantially in the form distributed to, and agreed by, the Preference Share Agent in connection with the Transaction Agreements.
 - 15.1.24.5 a legal opinion of Morton Fraser, substantially in the form distributed to, and agreed by, the Preference Share Agent in connection with the Transaction Agreements;
 - 15.1.24.6 a conveyancer's certificate confirming that the title deeds of the Properties contain no onerous servitudes, endorsements or conditions of title.
- 15.2 Upon the occurrence of a Trigger Event which is continuing the Preference Shareholders in such Class shall be entitled, but not obliged, to give written notice ("**Trigger Event Remedy Notice**") to the Issuer in which the Preference Shareholders require the Issuer to remedy that Trigger Event within a period of one Business Day.
- 15.3 If the Preference Shareholders deliver a Trigger Event Remedy Notice to the Issuer and the Issuer fails to remedy that Trigger Event within the aforesaid one Business Day period, the Preference Shareholders shall be entitled, but not obliged, to deliver written notice ("**Early Redemption Notice**") to the Issuer in which the Preference Shareholders require the Issuer to redeem the Unredeemed Preference Shares in that Class.
- 15.4 If an Early Redemption Notice is delivered, the Issuer shall, forthwith, be required to redeem such Class of Preference Shares in accordance with Condition 12.4 (*Early Redemption following a Trigger Event*).
- 15.5 No action may be taken by a Preference Shareholder pursuant to Condition 15.2 if the Issuer withholds or refuses to make any such payment in order to comply with any law or regulation of the Republic of South Africa or to comply with any order of a court of competent jurisdiction.
- 15.6 In respect of any JSE-listed Preference Shares, the details of any Trigger Event Remedy Notice delivered to the Issuer will be announced by the Issuer on SENS in such manner and within such time lines as may be required by JSE Debt Listings Requirement.
16. **EXCHANGE OF BENEFICIAL INTERESTS AND REPLACEMENT OF INDIVIDUAL CERTIFICATES**
- 16.1 **Exchange of Beneficial Interests**
- 16.1.1 The holder of a Beneficial Interest in Preference Shares may, in terms of the Applicable Procedures and subject to section 34(e) and 42 of the Financial Markets Act, by written notice to the holder's nominated Participant (or, if such holder is a Participant, the CSD), request that such Beneficial Interest be exchanged for Preference Shares in definitive form represented by an Individual Certificate (the "**Exchange Notice**"). The Exchange Notice shall specify (a) the name, address and bank account details of the holder of the Beneficial Interest and (b) the day on which such Beneficial Interest is to be exchanged for an Individual Certificate; provided that such day shall be a Business Day and shall fall not less than 30 (thirty) days after the day on which such Exchange Notice is given.
 - 16.1.2 The holder's nominated Participant will, following receipt of the Exchange Notice, through the CSD, notify the Transfer Agent that it is required to exchange such Beneficial Interest for Preference Shares represented by an Individual Certificate. The Transfer Agent will, as soon as is practicable but within 14 (fourteen) days after receiving such notice, in accordance with the Applicable Procedures, procure that an Individual Certificate is prepared, authenticated and made available for delivery, on a Business Day falling within the aforementioned 14 (fourteen) day period, to the Participant acting on behalf of the holder of the Beneficial Interest in respect of the conversion at the Specified Office of the Transfer Agent; provided that joint holders of a Beneficial Interest shall be entitled to receive only one Individual Certificate in respect of that joint holding, and the delivery to one of those joint holders shall be delivery to all of them.

16.1.3 In the case of the exchange of a Beneficial Interest in Preference Shares issued in uncertificated form:

- (a) the CSD shall, prior to the Exchange Date, surrender (through the CSD system) such uncertificated Preference Shares to the Transfer Agent at its Specified Office;
- (b) the Transfer Agent will obtain the release of such uncertificated Preference Shares from the CSD in accordance with the Applicable Procedures.

16.1.4 An Individual Certificate shall, in relation to a Beneficial Interest in any number of Preference Shares of a particular aggregate Issue Price standing to the account of the holder thereof, represent that number of Preference Shares of that aggregate Issue Price, and shall otherwise be in such form as may be agreed between the Issuer and the Transfer Agent.

16.2 Replacement

If any Individual Certificate is worn out, mutilated, defaced, stolen, destroyed or lost it may be replaced at the Specified Office of the Transfer Agent, on payment by the claimant of such costs and expenses as may be incurred in connection therewith and the provision of such indemnity as the issuer and the Transfer Agent may reasonably require. Mutilated or defaced Individual Certificates must be surrendered at the Specified Office of the Transfer Agent before replacements will be issued.

16.3 Death and sequestration or liquidation of Preference Shareholder

Any Person becoming entitled to Preference Shares in consequence of the death, sequestration or liquidation of the holder of such Preference Shares may, upon producing evidence to the satisfaction of the Issuer that he holds the position in respect of which he proposes to act under this Condition 16.3 or of his title as the Issuer and the Transfer Agent shall require, be registered himself as the holder of such Preference Shares or, subject to the Applicable Procedures, this Condition 16.3 and Condition 17 (*Transfer of Preference Shares*), may transfer such Preference Shares. The Issuer and (if applicable) the CSD and the relevant Participant shall be entitled to retain any amount payable upon the Preference Shares to which any Person is so entitled until such Person shall be registered as aforesaid or shall duly transfer the Preference Shares.

16.4 Costs

16.4.1 The costs and expenses of the printing, issue and delivery of each Individual Certificate and all Taxes and governmental charges or insurance charges that may be imposed in relation to such Individual Certificate and/or the printing, issue and subject to Condition 16.4.2, delivery of such Individual Certificate shall be borne by the holder of the Preference Shares represented by that Individual Certificate. Separate costs and expenses relating to the provision of Individual Certificates and/or the transfer of Preference Shares may be levied by other Persons, such as a Participant, under the Applicable Procedures, and such costs and expenses shall not be borne by the Issuer.

16.4.2 The costs and expenses of delivery of Individual Certificates otherwise than by ordinary post (if any) and all Taxes or governmental charge or insurance charges that may be imposed in relation to such mode of delivery shall be borne by the Preference Shareholder.

17. TRANSFER OF PREFERENCE SHARES

17.1 Transfer of Beneficial Interests in Preference Shares held by the CSD

17.1.1 Beneficial Interests may be transferred only in accordance with the Terms and Conditions and the Applicable Procedures through the CSD.

17.1.2 Transfers of Beneficial Interests to and from clients of Participants occur by way of electronic book entry in the securities accounts maintained by the Participants for their clients, in accordance with the Applicable Procedures.

17.1.3 Transfers of Beneficial Interests among Participants occur through electronic book entry in the central securities accounts maintained by the CSD for the Participants, in accordance with the Applicable Procedures.

17.1.4 Transfers of Beneficial Interests in Preference Shares will not be recorded in the Register and the CSD will continue to be reflected in the Register as the Preference Shareholder of such Preference Shares notwithstanding such transfers.

17.2 **Transfer of Preference Shares represented by Individual Certificates**

- 17.2.1 In order for any transfer of Preference Shares represented by an Individual Certificate to be recorded in the Register, and for such transfer to be recognised by the Issuer:
- (a) the transfer of such Preference Shares must be embodied in a Transfer Form;
 - (b) the Transfer Form must be signed by the registered Preference Shareholder of such Preference Shares and the transferee, or any authorised representatives of that registered Preference Shareholder or transferee;
 - (c) the Transfer Form must be delivered to the Transfer Agent at its Specified Office together with the Individual Certificate representing such Preference Shares for cancellation.
- 17.2.2 Subject to this Condition 17.2, the Transfer Agent will, within 3 (three) Business Days of receipt by it of a valid Transfer Form (or such longer period as may be required to comply with any Applicable Law and/or Applicable Procedures), record the transfer of Preference Shares represented by an Individual Certificate (or the relevant portion of such Preference Shares) in the Register, and authenticate and deliver to the transferee at the Transfer Agent's Specified Office or, at the risk of the transferee, send by mail to such address as the transferee may request, a new Individual Certificate in respect of the Preference Shares transferred reflecting the aggregate Issue Price of the Preference Shares transferred.
- 17.2.3 Where a Preference Shareholder has transferred a portion only of Preference Shares represented by an Individual Certificate, the Transfer Agent will authenticate and deliver to such Preference Shareholder at the Transfer Agent's Specified Office or, at the risk of such Preference Shareholder, send by mail to such address as such Preference Shareholder may request, at the risk of such Preference Shareholder, a new Individual Certificate representing the balance of the Preference Shares held by such Preference Shareholder.
- 17.2.4 The transferor of any Preference Shares represented by an Individual Certificate will be deemed to remain the owner thereof until the transferee is registered in the Register as the holder thereof.
- 17.2.5 Before any transfer of Preference Shares represented by an Individual Certificate is registered in the Register, all relevant transfer Taxes (if any) must have been paid by the transferor and/or the transferee and such evidence must be furnished as the Issuer and the Transfer Agent may reasonably require as to the identity and title of the transferor and the transferee.
- 17.2.6 No transfer of any Preference Shares represented by an Individual Certificate will be registered during the Books Closed Period.
- 17.2.7 If a transfer of any Preference Shares represented by an Individual Certificate is registered in the Register, the Transfer Form and cancelled Individual Certificate will be retained by the Transfer Agent.
- 17.2.8 The Transfer Agent will, within 3 (three) Business Days of receipt by it of a valid Transfer Form (or such longer period as may be required to comply with any applicable taxation or other laws, regulations or Applicable Procedures), authenticate and deliver to the transferee (at the risk of the transferee) a new Certificate in respect of the Preference Shares transferred.

18. **REGISTER**

The Register shall be kept at the Specified Offices of the Transfer Agent. The Register shall reflect the number of Preference Shares at any given time and the date upon which each of the Preference Shareholders was registered as such. The Register shall contain the name, address, and bank account details of the Preference Shareholders of Preference Shares. The Register shall set out the Issue Price of the Preference Shares issued to such Preference Shareholders and shall show the date of such issue. The Register shall show the serial number of Individual Certificates issued in respect of any Preference Shares. The Register shall be open for inspection during the normal business hours of the Issuer to any Preference Shareholder or any Person authorised in writing by any Preference Shareholder. The Transfer Agent shall not be obliged to record any transfer while the Register is closed. The Transfer Agent shall not be bound to enter any trust into the Register or to take notice of any or to accede to any trust executed, whether express or implied, to which any Preference Share may be subject. The Register shall be closed from the Last Day to Register until each payment date

of the Applicable Redemption Amount (if applicable and/or dividends in respect of the Preference Shares, as the case may be.

The Transfer Agent shall alter the Register in respect of any change of name, address or bank account number of any of the Preference Shareholders of which it is notified in accordance with these Terms and Conditions.

Except as provided for in these Terms and Conditions or as required by law, in respect of Preference Shares, the Issuer will only recognise a Preference Shareholder as the owner of the Preference Shares registered in that Preference Shareholder's name as per the Register.

19. **TRANSFER AGENT, CALCULATION AGENT AND PAYING AGENT**

19.1 Any third party appointed by the Issuer as Transfer Agent, Calculation Agent and/or Paying Agent shall act solely as the agent of the Issuer and does not assume any obligation towards or relationship of agency or trust for or with any Preference Shareholders.

19.2 If the Issuer elects to appoint another entity (not being the Issuer) as Transfer Agent, Calculation Agent and/or Paying Agent, that other entity, on execution of an appropriate agency agreement or an appropriate accession letter to any agency agreement, as the case may be, shall serve in that capacity in respect of the Preference Shares. The Issuer shall notify the Preference Shareholders (in the manner set out in Condition 20 (*Notices*) of any such appointment and, if any Preference Shares are listed on the JSE, the Issuer shall notify the JSE of any such appointment.

19.3 The Issuer is entitled to vary or terminate the appointment of the Transfer Agent, the Calculation Agent and/or the Paying Agent and/or appoint additional or other agents and/or approve any change in the specified office through which any such agent acts, provided that there will at all times be a Transfer Agent, Calculation Agent and a Paying Agent with an office in such place as may be required by the Applicable Procedures. The Transfer Agent, Paying Agent and Calculation Agent act solely as the agents of the Issuer and do not assume any obligation towards or relationship of agency or trust for or with any Preference Shareholders.

20. **NOTICES**

20.1 **By the Issuer**

20.1.1 Subject to Condition 20.1.2, the Issuer may give notices, documents, records or statements or notices of availability of the foregoing by personal delivery to a Preference Shareholder or holder of Beneficial Interests in a Preference Share or by sending such notices, documents, records or statements or notices of availability of the foregoing prepaid through the post or by transmitting them by telegram, telex or fax or by electronic communication within the meaning of the Companies Act to such Person's last known address.

20.1.2 For so long as any of the Preference Shares are issued in uncertificated form and are held in their entirety in the CSD, all notices in respect of such Preference Shares shall be by way of delivery by the Issuer via the relevant Participant of the relevant notice to the CSD (as the registered holder of such Preference Shares) and the JSE or such other Financial Exchange on which the Preference Shares are listed for communication by them to holders of Beneficial Interests in such Preference Shares. Each such notice shall be deemed to have been received by the holders of Beneficial Interests on the day of delivery of such notice to the CSD.

20.1.3 Any Preference Shareholder or holder of Beneficial Interests in a Preference Share who/which has furnished an electronic address to the Issuer, by doing so:

20.1.3.1 authorises the Issuer to use electronic communication to give notices, documents, records or statements or notices of availability of the foregoing to her/him/it; and

20.1.3.2 confirms that same can conveniently be printed by that Preference Shareholder or holder of the Beneficial Interests in such Preference Share within a reasonable time and at a reasonable cost.

20.1.4 In the case of joint Preference Shareholders, any notice given to that one of the joint Preference Shareholders who is first named in the Register in respect of that Preference shall be sufficient notice to all the Preference Shareholders of or Persons entitled to or otherwise interested in the Preference Shares.

20.1.5 A Preference Shareholder (or his/her executor) shall be bound by every notice in respect of the Preference Shares Delivered to the Person who was, at the date on which that notice was

Delivered, shown in the Register or established to the satisfaction of the directors of the Issuer from time to time (as the case may be) as the Preference Shareholder of that Preference Share(s), notwithstanding that the Preference Shareholder may then have been dead or may subsequently have died or have been or become otherwise incapable of acting in respect of the Preference Shares, and notwithstanding any transfer of the Preference Shares was not registered at that date. The Issuer shall not be bound to enter any Person in the Register as entitled to any Preference Shares until that Person gives the Issuer an address for entry in the Register.

- 20.1.6 The Issuer shall not be bound to use any method of giving notice, documents, records or statements or notices of availability of the foregoing, contemplated in the Companies Regulations in respect of which provision is made for deemed delivery, but if the Issuer does use such a method, the notice, document, record or statement or notice of availability of the foregoing shall be deemed to be delivered on the day determined in accordance with the Companies Regulations. In any other case, when a given number of days' (including Business Days) notice or notice extending over any period is required to be given, such number shall be calculated exclusive of the first day and any public holiday within the meaning of the Public Holidays Act, 1994 and inclusive of the last day.
- 20.1.7 As regards the signature of an electronic communication by a Preference Shareholder, it shall be in such form as the Board may specify to demonstrate that the electronic communication is genuine, or failing any such specification by the Board, it shall be constituted by a Preference Shareholder indicating in the electronic communication that it is that Preference Shareholder's intention to use the electronic communication as the medium to indicate that Preference Shareholder's approval of the information in, or that Preference Shareholder's signature of the document in or attached to, the electronic communication which contains the name of the Preference Shareholder sending it in the body of the electronic communication.

20.2 **Notice by the Preference Shareholders**

A notice (including a demand or request under the Terms and Conditions) to be given by any Preference Shareholder to the Issuer shall be in writing and given by lodging (either by hand delivery or posting by registered mail) that notice, together with a certified copy of the relevant Individual Certificate at the office of the Transfer Agent specified in the Applicable Pricing Supplement. For so long as any of the Preference Shares are issued in uncertificated form, notice may be given by any holder of a Beneficial Interest in such Preference Shares to the Issuer via the relevant Settlement Agent in accordance with the Applicable Procedures, in such manner as the Issuer and the relevant Settlement Agent may approve for this purpose. Such notices shall be deemed to have been received by the Issuer on the date and at the time determined in accordance with Table CR3 in the Companies Regulations.

20.3 **Notices in relation to Preference Shares listed on the JSE**

In addition to the provisions of Conditions 20.1 and 20.2, for so long as any Preference Shares are listed on the JSE all notices by the Issuer in respect of such JSE-listed Preference Shares, shall be made by way of an announcement on SENS, in the manner prescribed and in accordance with the timeline requirements of the JSE.

21. **VOTING RIGHTS**

- 21.1 No Preference Share shall have associated with it any general voting right at any shareholders meeting of the Issuer other than an irrevocable right of the Preference Shareholders of any Class of Preference Shares to vote on any proposal to amend the Terms and Conditions associated with that Class of Preference Shares.
- 21.2 Provided that where any amendment to the Terms and Conditions is a proposed amendment to the Terms and Conditions and/or the Issuer's Memorandum of Incorporation which affects or relates to all Preference Shares in issue under the Programme at that time, then such amendment shall not be effective unless it is approved by Special Resolution of all Preference Shareholders and for such purpose all of the holders of Preference Shares shall be treated as a single class and each Preference Share shall have associated with it one general voting right for the purposes of such Special Resolution. Where any proposed amendment to the Terms and Conditions is a proposed amendment to the Terms and Conditions or the Issuer's Memorandum of Incorporation, which affects or relates

to a Class of Preference Shareholders only, then such amendment shall not be effective unless it is approved by Special Resolution of the affected Class of Preference Shareholders.

22. MEETINGS OF PREFERENCE SHAREHOLDERS

22.1 Convening of meetings

The Board may at any time convene a meeting of all Preference Shareholders or holders of any Class of Preference Shares, as the case may be, or put a proposed resolution to vote by way of a Round Robin Resolution. The Board shall be obliged to convene a meeting of all Preference Shareholders or holders of any Class of Preference Shares, as the case may be, or put a proposed resolution to vote by way of a Round Robin Resolution if (i) at any time it is required by the Companies Act or the Issuer's Memorandum of Incorporation to refer a matter to Preference Shareholders entitled to vote for decision; or (ii) one or more written and signed demands for such a meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, or Round Robin Resolution is/are delivered to the Issuer in accordance with Condition 20 (*Notices*), and:

22.1.1 each such demand describes the specific purpose for which such meeting is proposed; and

22.1.2 in aggregate, demands for substantially the same purpose are made and signed by Preference Shareholders at the earliest time specified in any of those demands, of at least 10 percent of the aggregate Issue Price of all Preference Shares or Preference Shares in that Class, as the case may be.

22.2 Notice of meetings

22.2.1 A meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, shall be called by at least 15 (fifteen) Business Days' notice after Delivery by the Issuer to all Preference Shareholders entitled to vote or otherwise entitled to receive notice and simultaneously to the Transfer Agent.

22.2.2 The Issuer may call a meeting of Preference Shareholders or Class of Preference Shareholders with less notice than required by Condition 22.2.1, but such a meeting may proceed only if every Person who is entitled to exercise voting rights in respect of any item on the meeting agenda (i) is present in person or by proxy or represented by proxy or Representative at such meeting; and (ii) votes to waive the required minimum notice for such meeting.

22.2.3 A requisition notice by Preference Shareholders requesting a meeting of Preference Shareholders pursuant to Condition 22.1.2 above may consist of several documents in like form, each signed by one or more requisitioning Preference Shareholders. Such a requisition notice will be delivered to the Specified Offices of the Issuer.

22.3 Contents of notice of meetings of Preference Shareholders

22.3.1 A notice of a meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, must be in writing, in plain language and must include, in addition to any other information prescribed by the Companies Act:

- (a) the date, time and place for the meeting, and the record date for determining the Preference Shareholders entitled to participate in and vote at the meeting;
- (b) the general purpose of the meeting, and any specific purpose contemplated in Condition 22.1.1, if applicable;
- (c) a copy of any proposed resolution of which the Issuer has received notice in terms of Condition 22.2.2, and which is to be considered at the meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, and a notice of the percentage of voting rights that will be required for that resolution to be adopted;
- (d) a reasonably prominent statement that:
 - (i) a Preference Shareholder entitled to attend and vote at a meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, shall be entitled to appoint a proxy to attend, participate in, speak and vote at such meeting in the place of the Preference Shareholder entitled

to vote or give or withhold written consent on behalf of the Preference Shareholder entitled to vote to a decision by Round Robin Resolution;

- (ii) a proxy need not be a Preference Shareholder;
- (iii) a Preference Shareholder entitled to vote may appoint more than 1 (one) proxy to exercise voting rights attached to different Preference Shares held by that Preference Shareholder entitled to vote in respect of any such meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be;
- (iv) the proxy may delegate the authority granted to her/him/it as proxy, subject to any restriction in the instrument of proxy itself;
- (v) participants in a meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, are required to furnish satisfactory identification in terms of section 63(1) of the Companies Act in order to reasonably satisfy the Person presiding at such meeting of Preference Shareholders that the right of that Person to participate and vote either as a Preference Shareholder or as a proxy, has been reasonably verified;
- (vi) participation in the meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, by electronic communication within the meaning of the Companies Act is available, where applicable, and in such event provide any necessary information to enable Preference Shareholders entitled to vote or their proxies to access the available medium or means of electronic communication and advise that access to the medium or means of electronic communication is at the expense of the Preference Shareholder entitled to vote or proxy, except to the extent that the Issuer determines otherwise.

22.3.2 A Preference Shareholder entitled to vote, who is present in person or represented by proxy or Representative at a meeting:

- (a) is regarded as having received or waived notice of the meeting if at least the required minimum notice was given;
- (b) has a right to:
 - (i) allege a material defect in the form of notice for a particular item on the agenda for the meeting; and
 - (ii) participate in the determination whether to waive the requirements for notice, if less than the required minimum notice was given, or to ratify a defective notice; and
- (c) except to the extent set out in paragraph (b) above is regarded to have waived any right based on an actual or alleged material defect in the notice of the meeting.

22.3.3 A meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, may proceed notwithstanding a material defect in the giving of the notice, subject to Condition 22.3.4, only if every Preference Shareholder who is entitled to exercise voting rights in respect of each item on the agenda of the meeting is present at the meeting and votes to approve the ratification of the defective notice.

22.3.4 If a material defect in the form or manner of giving notice of a meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, relates only to one or more particular matters on the agenda for the meeting:

- (a) any such matter may be severed from the agenda, and the notice remains valid with respect to any remaining matters on the agenda; and
- (b) the meeting may proceed to consider a severed matter, if the defective notice in respect of that matter has been ratified in terms of Condition 22.3.2.

22.3.5 An immaterial defect in the form or manner of Delivering notice of a meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, or an accidental or inadvertent failure in the Delivery of the notice to any particular Preference Shareholder to

whom it was addressed if the Issuer elects to do so, does not invalidate any action taken at such meeting of Preference Shareholders or Class of Preference Shareholders, as applicable.

- 22.3.6 For the purposes of determining which Persons are entitled to attend or vote at a meeting and how many votes such Person may cast, the Issuer or the Transfer Agent, as the case may be, shall specify in the notice of the meeting, the record date by which a Person must be entered on the Register in order to have the right to participate in and vote at such meeting.

22.4 **Chairperson**

The chairperson, if any, of the Board shall preside as chairperson at every meeting of Preference Shareholders or Class of Preference Shareholders, as applicable. If there is no such chairperson, or if at any meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, s/he is not present within 15 (fifteen) minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the Preference Shareholders entitled to vote which are present in person or represented by proxy or Representative at the meeting shall select a director of the Issuer present at such meeting, or if no director be present at such meeting, or if all the directors present decline to take the chair, the Persons entitled to vote shall select one of their number which is present at the meeting to be chairperson of the meeting of Preference Shareholders or Class of Preference Shareholders, as applicable.

22.5 **Quorum**

- 22.5.1 Business may be transacted at any meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, only while a quorum is present.

22.5.2 The quorum necessary for the commencement of a meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, shall be sufficient Preference Shareholders present in person or represented by proxy or Representative at the meeting to exercise, in aggregate, at least 25% (twenty five percent) of the aggregate Issue Price of all Preference Shares or Preference Shares in the relevant Class of Preference Shares, as the case may be, provided that a minimum number of three such Persons must be present at the meeting if the Issuer has more than 2 (two) shareholders in that Class.

22.5.3 A matter to be decided at the meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, may not begin to be considered unless those who fulfilled the quorum requirements of Condition 22.5.1 continue to be present at the meeting.

22.5.4 If within 30 (thirty) minutes from the time appointed for the meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, to commence, a quorum is not present or if the quorum requirements in Condition 22.5.1 cannot be achieved for any one or more matters, the meeting of Preference Shareholders or Class of Preference Shareholders, as applicable, shall be postponed, without motion, vote or further notice, for 1 (one) week to the same time on the same day in the next week or, if that day is not a Business Day, to the next succeeding Business Day, and if at such adjourned meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, a quorum is not present within 30 (thirty) minutes from the time appointed for the meeting then, the Preference Shareholders entitled to vote present in person or represented by proxy or Representative at the meeting shall be deemed to be the requisite quorum.

22.6 **Quorum at any meeting for passing an Extraordinary Resolution or Special Resolution**

The quorum at any meeting for passing an Extraordinary Resolution or Special Resolution, as the case may be, shall be three or more Preference Shareholders of that Class present or represented by proxies or Representatives and holding or representing in the aggregate a clear majority of the aggregate Issue Price of the Preference Shares held by the applicable Class, provided that a minimum number of three such Persons must be present at the meeting if the Issuer has more than 2 (two) shareholders in that Class.

A Special Resolution passed at any meeting of the holders of Preference Shares of that Class will be binding on all holders of Preference Shares, whether or not they are present at the meeting. No amendment to or modification of the Terms and Conditions may be effected without the written agreement of the Issuer.

22.7 **Adjournment of meetings**

- 22.7.1 A meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, or the consideration of any matter being debated at the meeting of Preference Shareholders or Class of Preference Shareholders, as applicable, may be adjourned from time to time without further notice on a motion supported by Preference Shareholders present in person or represented by proxy or Representative entitled to exercise, in aggregate, a majority of the Issue Price of all the Preference Shares or Preference Shares held by the applicable Class, as the case may be.
- 22.7.2 Such adjournment may be either to a fixed time and place or until further notice (in which latter case a further notice shall be Delivered to the Preference Shareholders), as agreed at the meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be.
- 22.7.3 A meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, may not be adjourned beyond the earlier of the date that is 60 (sixty) Business Days after the date on which the adjournment occurred.
- 22.7.4 No further notice is required to be Delivered by the Issuer of a meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, that is postponed or adjourned as contemplated in Condition 22.5.1, unless the location or time of the meeting is different from: (i) the location or time of the postponed or adjourned meeting of Preference Shareholders or Class of Preference Shareholders, as applicable or (ii) a location or time announced at the time of adjournment, in the case of an adjourned meeting.

22.8 **Participation**

The following may attend and speak at a meeting:

- (a) Preference Shareholders present, by Representative or by proxy provided that no such Person shall be entitled to attend and speak (or vote) unless he provides proof acceptable to the Issuer that he is a Preference Shareholder, its Representative or proxy if so required by the Issuer to do so;
- (b) any officer or duly appointed representative of the Issuer and every other Person authorised in writing by the provided that such Person shall not be entitled to vote, other than as a proxy or Representative;
- (c) the legal counsel to the Issuer;
- (d) the Transfer Agent;
- (e) any other Person approved by the Preference Shareholders at such meeting; and
- (f) every director or duly appointed representative of the Issuer and every other Person authorised in writing by the Issuer may attend and speak at a meeting of Preference Shareholders, but shall not be entitled to vote, other than as a proxy or Representative.

22.9 **Poll**

- 22.9.1 At any meeting a resolution put to the vote shall be decided on a show of hands, unless before or on the declaration of the result of the show of hands a poll shall be demanded by:
- (a) not less than 5 (five) Preference Shareholders present in person or represented by proxy or Representative having the right to vote on that matter;
 - (b) a Preference Shareholder/s entitled to exercise not less than 1/10th (one tenth) of the aggregate Issue Price of the Preference Shares of all Preference Shareholders entitled to vote on that matter; or
 - (c) the chairperson.
- 22.9.2 The demand for a poll shall not prevent the continuation of a meeting of Preference Shareholders or Class of Preference Shareholders, as applicable, for the transaction of any business other than the question upon which the poll has been demanded. The demand for a poll may be withdrawn.

22.10 **Proxy**

- 22.10.1 Subject to the provisions of the Companies Act, a form appointing a proxy may be in any usual or common form provided that it is in writing. The Issuer shall supply a generally standard form of proxy upon request by a Preference Shareholder entitled to vote.
- 22.10.2 The form appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of such power of attorney or authority shall be delivered to the Issuer, the Transfer Agent or any Person which it has identified in the notice of meeting as being a Person to whom instruments of proxy may be delivered on behalf of the Issuer, immediately prior to the meeting, before the proxy exercises any rights of the Preference Shareholder entitled to vote at a meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be.
- 22.10.3 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or mental disorder of the principal or revocation of the instrument of proxy or of the authority under which the instrument of proxy was executed, or the transfer of the Preference Shares in respect of which the instrument of proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer as aforesaid shall have been received by the Issuer or the Transfer Agent, as the case may be, at its Specified Office before the commencement of the meeting of Preference Shareholders or Class of Preference Shareholders, as applicable, or adjourned meeting at which the instrument of proxy is used.
- 22.10.4 No form appointing a proxy shall be valid after the expiration of 1 (one) year from the date when it was signed unless the proxy form itself provides for a longer or shorter duration but it may be revoked at any time. The appointment is revocable unless the proxy appointment expressly states otherwise, and may be revoked by cancelling it in writing, or making a later inconsistent appointment of a proxy, and delivering a copy of the revocation instrument to the proxy, and to the Issuer. The appointment is suspended at any time and to the extent that the Preference Shareholder entitled to vote chooses to act directly and in person in the exercise of any rights as a Preference Shareholder entitled to vote.

22.11 **Beneficial Interests**

The holder of any Preference Shares in which any Person has a Beneficial Interest must deliver to each such Person:

- 22.11.1 a notice of any meeting of the Issuer at which those Preference Shares may be voted within 2 (two) Business Days after receiving such a notice from the Issuer; and
- 22.11.2 a proxy appointment to the extent of that Person's Beneficial Interest, if the Person so demands in compliance with section 56(11) of the Companies Act.

22.12 **Votes**

- 22.12.1 Subject to any rights or restrictions attaching to any Class or Classes of Preference Shares, the JSE Listings Requirements and JSE Debt Listings Requirement, on a show of hands Preference Shareholders entitled to vote present in person or represented by proxy or Representative at the meeting shall have only 1 (one) vote, irrespective of the number of voting rights that Preference Shareholders would otherwise be entitled to exercise. A proxy shall irrespective of the number of the Preference Shareholders entitled to vote she/he/it represents have only 1 (one) vote on a show of hands. On a poll every Person entitled to vote who is present at the meeting shall have the number of votes determined in accordance with the voting rights associated with the Preference Shares in question, provided that the total voting rights of all the Preference Shareholders and the holders of all other redeemable, preference shares in the share capital of the Issuer shall not exceed 24.99% (twenty four comma nine nine per cent.) of the total voting rights of all shareholders of the Issuer at any general meeting.
- 22.12.2 Notwithstanding any other provision contained in this Condition 22, the CSD shall vote on behalf of holders of Beneficial Interests of uncertificated Preference Shares in accordance with the Applicable Procedures.
- 22.12.3 If a form appointing a proxy is received duly signed but with no indication as to how the Person named therein should vote on any issue, the proxy may vote or abstain from voting as she/he/it sees fit unless the form appointing the proxy indicates otherwise.

22.12.4 Unless the form of proxy states otherwise, a Representative or proxy shall not be obliged to exercise all the votes which he is entitled or cast all the votes which he exercises in the same way.

22.12.5 In the case of joint Preference Shareholders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint Preference Shareholders; and for this purpose seniority shall be determined by the order in which the names stand in the Register.

22.12.6 A majority of the voting exercised thereon shall be required to ordinarily pass a resolution of Preference Shareholders.

22.13 Validity of votes by proxies

Any vote by a proxy in accordance with the form of proxy shall be valid even if such form of proxy or any instruction pursuant to which it was given has been amended or revoked, provided that the Transfer Agent or the Issuer at its Specified Office has not been notified in writing of such amendment or revocation by the time which is 24 hours before the time fixed for the relevant meeting. Unless revoked, any appointment of a proxy under a form of proxy in relation to a meeting shall remain in force in relation to any resumption of such meeting following an adjournment.

22.14 Powers

A meeting of Preference Shareholders will have the power (exercisable by Extraordinary Resolution or Special Resolution, as applicable), without prejudice to any other powers conferred on it or any other Person:

- (a) to sanction any compromise or arrangement proposed to be made between the Issuer and the Class of Preference Shareholders or any of them;
- (b) to sanction any abrogation, modification, compromise or arrangement in respect of the rights of the Class of Preference Shareholders against the Issuer or against any of its property whether such rights shall arise under the Preference Shares or otherwise;
- (c) to assent to any modification of the provisions contained in the Terms and Conditions which shall be proposed by the Issuer;
- (d) to give any authority or sanction which under the Terms and Conditions is required to be given by Extraordinary Resolution or Special Resolution, as the case may be;
- (e) to appoint any Persons (whether Preference Shareholders or not) as a committee or committees to represent the interests of the Preference Shareholders of that Class and to confer upon such committee or committees any powers or discretions which the Preference Shareholders could themselves exercise by Extraordinary Resolution;
- (f) to sanction any scheme or proposal for the exchange or sale of the Preference Shares for, or the conversion of the Preference Shares into or the cancellation of the Preference Shares in consideration of, shares, stocks, notes, bonds, debentures, debenture stock and/or other obligations and/or securities of the Issuer or any entity (corporate or otherwise) formed or to be formed, or for or into or in consideration of cash, or partly for or into or in consideration of such shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities as aforesaid and partly for or into or in consideration for cash.

22.15 Validity and result of vote

22.15.1 No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting or poll at which the vote objected to is or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairperson of the meeting whose decision shall be final and conclusive.

22.15.2 In case of any dispute as to the admission or rejection of a vote, the chairperson of the meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, shall determine the dispute and the determination of the chairperson made in good faith shall be final and conclusive.

22.15.3 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting of Preference Shareholders or Class of Preference Shareholders, as the case

may be, at which the show of hands takes place, or at which the poll is demanded, shall not be entitled to a second or casting vote.

22.15.4 Unless a poll is so demanded, a declaration by the chairperson that a resolution has, on a show of hands been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book of the Issuer, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution. No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is, or may be, given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.

22.15.5 If a poll is duly demanded it shall be taken in such manner as the chairperson directs save that it shall be taken forthwith, and the result of the poll shall be deemed to be the resolution of the meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, at which the poll was demanded. Scrutineers may be appointed by the chairperson to count the votes and to declare the result of the poll, and if appointed their decision, which shall be given by the chairperson of the meeting, shall be deemed to be the resolution of the meeting of Preference Shareholders or Class of Preference Shareholders, as the case may be, at which the poll is demanded.

22.16 **Binding effect of resolutions**

Any resolution passed at a meeting of a Class of Preference Shareholders duly convened shall be binding upon all Preference Shareholders of that Class whether or not present at such meeting and whether or not voting, and each Preference Shareholder of that Class shall be bound to give effect to it accordingly.

An Extraordinary Resolution and a Special Resolution shall be binding upon all Preference Shareholders whether or not present at such meeting and whether or not voting, and each of the Preference Shareholders shall be bound to give effect to it accordingly. A Round Robin Resolution will be passed if signed by Preference Shareholders entitled to exercise sufficient voting rights for it to have been adopted as an Extraordinary or Special Resolution, as the case may be, at a properly constituted meeting.

22.17 **Notice of the result of voting on any resolution**

22.17.1 Within 10 (ten) Business Days of a Round Robin Resolution being adopted, the Issuer must deliver a notice in accordance with Condition 20 (*Notices*) describing the results of the vote, consent process, or election to every Preference Shareholder who was entitled to vote on or consent to the Round Robin Resolution.

22.17.2 Notice of the result of the voting on any resolution (including any Extraordinary Resolution or Special Resolution) duly considered by the Preference Shareholders shall be given to the Preference Shareholders within 14 (fourteen) days of the conclusion of the meeting in accordance with Condition 20 (*Notices*). Non-publication shall not invalidate any such resolution.

22.18 **Special Protected Matters**

22.18.1 A resolution of the Preference Share Agent (acting on behalf of the Preference Shareholders), as a separate class of shareholders shall be required to be passed in respect of the following matters:

22.18.1.1 for so long as any Trigger Event or Potential Trigger Event has occurred and is continuing;

22.18.1.2 if any Preference Dividend (or any part thereof) is not paid on its Dividend Payment Date and remains in arrears;

22.18.1.3 if any Final Redemption Amount (or any part thereof) is not paid on its Applicable Redemption Date and remains in arrears; or

22.18.1.4 if a resolution of the Issuer is proposed which affects these Terms and Conditions, the rights to receive the Preference Dividends, the rights to receive

the Final Redemption Amounts or the interests of the Preference Shareholders, including any resolution for the amendment of these Terms and Conditions.

- 22.18.2 A resolution of the Preference Share Agent (acting on behalf of the Preference Shareholders), as a separate class of shareholders) shall be required to be passed, in addition to the resolution required to be passed by ordinary shareholders, in respect of the following matters:
- 22.18.2.1 increasing, altering, subdividing, repurchasing, reduction, return or repayment of any share capital, share premium, stated capital, non-distributable reserve account or reserves of the issued and/or authorised share capital of the Issuer, including the issue and allotment of shares, share options, warrants and debentures (and other similar instruments), other than the issue of ordinary shares, issues for purposes of an acquisition issue, vendor consideration placing or employee share incentive scheme, in each case, in accordance with the provisions of the JSE Listings Requirements;
 - 22.18.2.2 sale or disposal of any asset of the Issuer directly or indirectly;
 - 22.18.2.3 amending, varying or cancelling any of the rights attaching to the ordinary shares held by the Issuer;
 - 22.18.2.4 amending the Issuer MOI, other than for purposes of compliance with the JSE Listings Requirements, the Companies Act or any Applicable Law;
 - 22.18.2.5 approving a scheme of arrangement, liquidation, winding up or application for business rescue of the Issuer;
 - 22.18.2.6 incurring any debt, or guaranteeing other indebtedness in the Issuer, other than any Indebtedness or guarantees contemplated in these Terms and Conditions;
 - 22.18.2.7 changing the nature of the business of the Issuer;
 - 22.18.2.8 undertaking any act that requires a special resolution to be passed under the Companies Act; or
 - 22.18.2.9 any other matter which affects the rights of the Preference Shareholders under these Terms and Conditions, the right of the Preference Shareholder to receive any Preference Dividends or any Applicable Redemption Amount or that affects the interest of the Preference Shareholder.
- 22.18.4 At every meeting of the Preference Shareholders as a separate class of shareholders of the Issuer, the provisions of the Issuer MOI relating to shareholders meeting shall apply *mutatis mutandis*.
- 22.18.5 At every shareholders meeting at which the Preference Shareholders are entitled to exercise voting rights the provisions of the Issuer MOI relating to shareholders meetings shall apply *mutatis mutandis*, except that there shall be no quorum unless the Preference Share Agent (representing one or more Preference Shareholders by proxy) is present, provided that if at any adjournment of such meeting a quorum is not so present, the provisions of the Issuer MOI relating to adjourned general meetings shall, *mutatis mutandis*, apply.
- 22.18.6 At all times while the Preference Shareholders are entitled to exercise voting rights at any shareholders meeting of the Issuer in accordance with this Condition 22, the Preference Share Agent shall be entitled (on behalf of the Preference Shareholders) to convene a meeting of the shareholders of the Issuer in accordance with section 61 of the Companies Act.

23. MODIFICATION

- 23.1 The Issuer may effect, without the consent of the relevant Class of Preference Shareholders, any amendment or modification of the Terms and Conditions which is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of the law of the

jurisdiction in which the Issuer is incorporated and the governing law in accordance with which Preference Shares are issued.

23.2 Save as provided in Condition 23.1, no amendment, variation or modification of these Terms and Conditions may be effected or be of any force or effect unless:

23.2.1 in writing and signed by or on behalf of the Issuer and by or on behalf of the members of the relevant Class of Preference Shareholders holding not less than 66.67% (sixty six point six seven percent) of the aggregate Issue Price of the Preference Shares in that Class; or

23.2.2 sanctioned by an Extraordinary Resolution or Extraordinary Written Resolution of the relevant Class of Preference Shareholders,

provided that no such amendment, variation or modification shall be of any force or effect unless notice of the intention to make such amendment, variation or modification shall have been given to all the members of the relevant Class of Preference Shareholders in terms of Condition 20 (*Notices*)

23.3 The Issuer shall be obliged to first obtain approval from the JSE prior to seeking approval of preference Shareholders as contemplated in Condition 23.2. In order to obtain such approval from the JSE, the amended placing document, whether in the form of a supplement to this Programme Memorandum or otherwise, must be submitted to the JSE and once approved, such amended placing document must also be published on SENS according to the requirements of the JSE from time to time.

23.4 No amendment or modification to the Terms and Conditions (or applicable Terms and Conditions) may be effected unless such amendment or modification complies with the applicable provisions of the JSE Debt Listings Requirements of or such other Financial Exchange, as the case may be.

23.5 Any such modification of these Terms and Conditions made pursuant to this Condition 23 shall be binding on the relevant Class of Preference Shareholders and any such modification shall be notified to the relevant Class of Preference Shareholders in accordance with Condition 20 (*Notices*) and to the relevant Financial Exchange as soon as practicable thereafter.

23.6 For the avoidance of doubt:

23.6.1 the exercise by the Issuer of its rights under Condition 19 (*Transfer Agent, Calculation Agent and Paying Agent*) shall not constitute an amendment, variation or modification of these Terms and Conditions; and

23.6.2 it is recorded that, the Applicable Pricing Supplement, in relation to any Preference Shares, may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with the Terms and Conditions, replace or modify such Terms and Conditions for the purposes of such Preference Shares. The issuing of any such Applicable Pricing Supplement shall not constitute an amendment, variation or modification of these Terms and Conditions as contemplated by this Condition 23 requiring the approval of the Preference Shareholders or the JSE.

24. **APPROVAL**

The Programme Memorandum was approved by the JSE on 11 December 2017.

25. **FURTHER ISSUES**

The Issuer shall be at liberty from time to time without the consent of the Preference Shareholders to create and issue further Preference Shares (the “**Additional Preference Shares**”) having terms and conditions which are identical as any of the other Preference Shares already issued under the Programme (the “**Existing Preference Shares**”) or the same in all respects save for their respective Issue Prices and Issue Dates, so that the Additional Preference Shares shall be (i) consolidated to form a single Class with the Existing Preference Shares and (ii) rank *pari passu* in all respects with the Existing Preference Shares.

26. **GOVERNING LAW**

Unless otherwise specified in the Applicable Pricing Supplement, the provisions of the Terms and Conditions and the Preference Shares are governed by, and shall be construed in accordance with, the laws of South Africa.

27. **PREFERENCE SHARES AND THE COMPANIES ACT**

27.1 Notwithstanding anything to the contrary contained in these Terms and Conditions or the Programme Memorandum, (i) the Issuer, (ii) each Preference Share, and (iii) each of the Preference Shareholders, shall be subject to all of the applicable provisions of the Companies Act including, without limiting the generality of the foregoing, sections 37 and 46 of the Companies Act (the “**Applicable Provisions**”).

27.2 For the purpose of the Preference Shares and in relation to (i) the Issuer, (ii) Preference Shares, and (iii) each of the Preference Shareholders:

27.2.1 the Applicable Provisions are deemed to be incorporated by reference into these Terms and Conditions; and

27.2.2 to the extent that there is any conflict or inconsistency between the Applicable Provisions and any of these Terms and Conditions, the Applicable Provisions shall prevail; and

27.2.3 to the extent that, in consequence of such conflict, the Applicable Provisions replace, amend, or supplement any of these Terms and Conditions, any reference to “*Terms and Conditions*” in the Programme Memorandum and/or the Applicable Pricing Supplement shall be deemed to include these Terms and Conditions as so replaced, amended or supplemented.

28. **SEVERABILITY**

Should any of the applicable Terms and Conditions be, or become, invalid, the validity of the remaining applicable Terms and Conditions shall not be affected in any way.

29. **PURPOSE**

The proceeds from the issue of the Preference Shares will be used to:

29.1 redeem all of the “A” Preference Shares and repay all amounts owing in connection with the “A” Preference Shares;

~~29.2~~ pay all amounts outstanding under the ~~Bridge Loan~~;

~~29.3~~ ~~29.2~~ pay all amounts outstanding under the Existing Market Place Facility;

~~29.4~~ ~~29.3~~ fund any other requirements of any Material Company as required.

30. **OTHER INDEMNITIES**

30.1 The Issuer hereby unconditionally and irrevocably agrees to indemnify and hold harmless each Preference Shareholder against any properly evidenced cost, loss or liability incurred by that Preference Shareholder as a result of:

30.1.1 the occurrence of any Potential Trigger Event or Trigger Event;

30.1.2 a failure by the Issuer to pay any amount due under a Finance Document on its due date;

30.1.3 the breach of any representation, warranty or undertaking in the Finance Documents;

30.1.4 funding, or making arrangements to fund, its participation in the Preference Shares but not made by reason of the operation of any one or more of the provisions of the Subscription Agreement and/or these Terms and Conditions (other than by reason of default or negligence by that Preference Shareholder alone);

30.1.5 any payment which such Preference Shareholder receives from the Issuer in respect of the Preference Shares being set aside or being required to be refunded or reduced under any Applicable Law or proving to have been for any reason invalid;

30.1.6 any Tax becoming payable by the Preference Shareholder as a result of the subscription for, the holding of and/or the funding of the Preference Shares;

30.1.7 the Preference Shares (or any of them) not being validly created and/or issued to the Preference Shareholder and/or, for any reason whatsoever, any Preference Shareholder not (in respect of any Preference Share held by it) being entitled to all or any rights and/or privileges set out in these Terms and Conditions, including, for the avoidance of doubt, any decrease in the Return as a result of the Preference Shares (or any of them) not being validly created and/or issued to the Subscriber on the terms and conditions set out in the Subscription Agreement,

save for any cost, loss or liability caused solely by (i) the relevant Preference Shareholder's own wilful misconduct or gross negligence or (ii) any indirect, special or consequential damage or loss (including loss of profit) suffered by a Preference Shareholder.

30.2 Subject to the provisions of Condition 30.5, each indemnity in this Condition 30 shall constitute a separate and independent obligation from the other obligations contained in these Terms and Conditions, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted from time to time and shall continue in full force and effect notwithstanding any judgement or order or any redemption of the Preference Shares or any of them.

30.3 Any amount due to a Preference Shareholder under this Condition 30 shall be certified by that Preference Shareholder, which certificate shall in the absence of manifest error constitute *prima facie* proof of the amount due to such Preference Shareholder.

30.4 The Issuer shall pay each Preference Shareholder all amounts contemplated by this Condition 30 forthwith upon demand and without deduction or set off and without right of deferment or avoidance by virtue of any counterclaim.

30.5 No claims for the losses under this Condition 30 shall result in any duplication of any payment made to any Preference Shareholder in respect of substantially the same cause of action.

30.6 The provisions of this Condition 30 shall survive the redemption or transfer of these Preference Shares and shall expire and cease to be of any force and effect upon the Final Discharge Date.

31. **MANDATORY RESERVING**

31.1 The Issuer shall on each Scheduled Reserve Date pay the Schedule Reserve Amount in respect of that Scheduled Reserve Date into the Reserve Account.

31.2 If the Preference Share Agent delivers a written notice to the Issuer informing the Issuer of the occurrence of an Exit Event, the Issuer shall ensure that by no later than:

31.2.1 5 (five) Business Days after receipt of such written notice from the Preference Share Agent, the Issuer pays an amount equal to the Outstanding Preference Shares Obligations into the Reserve Account; and

31.2.2 the last Business Day of each Month (the "**Top-up Date**") occurring after an Exit Event, the Issuer pays such additional amounts into the Reserve Account so as to ensure that as at the Top-up Date, the amounts standing to the credit of the Reserve Account are at least equal to the Outstanding Preference Shares Obligations as at such Top-up Date.

32. **REPRESENTATIONS AND WARRANTIES**

The Issuer makes the representations and warranties set out in this Condition 32 to each Preference Shareholder.

32.1 **Status**

32.1.1 It and each Material Company is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.

32.1.2 It and each Material Company has the power to own its assets and carry on its business as it is being conducted.

32.2 **Binding Obligations**

The obligations expressed to be assumed by it in each Finance Document are, legal, valid, binding and enforceable obligations.

32.3 **Non-conflict With Other Obligations**

The entry into and performance by the Issuer of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

32.3.1 any law or regulation applicable to it;

32.3.2 its Constitutional Documents; or

32.3.3 any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

32.4 **Power and Authority**

32.4.1 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

32.4.2 No limit on its powers will be exceeded as a result of the borrowing or giving of guarantees or indemnities contemplated by the Finance Documents to which it is a party.

32.5 **Validity and admissibility in evidence**

32.5.1 All Authorisations required or desirable:

32.5.1.1 to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party and to ensure that the obligations expressed to be assumed by it in the Finance Documents to which it is a party are legal, valid and binding and enforceable; and

32.5.1.2 to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect.

32.5.2 All Authorisations necessary and material for the conduct of the business, trade and ordinary activities of each Material Company have been obtained or effected and are in full force and effect.

32.6 **Governing Law and enforcement**

32.6.1 The choice of South African law as the governing law of the Finance Documents will be recognised and enforced in its jurisdiction of incorporation.

32.6.2 Any judgment obtained in South Africa in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation.

32.7 **Deduction of Tax**

Save for Dividends Tax, it is not required to make any deduction for or on account of Tax from any payment it may make under any Finance Documents to any Preference Shareholder.

32.8 **No filing or stamp taxes**

Other than in the event that the transactions contemplated in the Finance Documents are reportable in accordance with the provisions of the Income Tax Act, the filing of these Terms and Conditions with CIPC or as otherwise required by the JSE Listings Requirements, it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents.

32.9 **Breach**

32.9.1 No Trigger Event has occurred and no Potential Trigger Event is continuing or might reasonably be expected to result from the entry into of, or the performance of any transaction contemplated by, the Finance Documents.

32.9.2 No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of the foregoing, would constitute) a default under any other agreement or instrument which is binding on it or to which its assets are subject which might result in a Material Adverse Change.

32.10 **No Misleading Information**

Save as disclosed in writing to the Preference Share Agent prior to the Issue Date all material information provided to a Preference Shareholder by or on behalf of the Issuer in connection with the Finance Documents and/or a Material Company and the transactions contemplated thereby is true, complete and accurate in all material respects as at the date it was given and is not misleading in any respect (whether because of information actually provided or which should have been provided).

32.11 **Financial Statements**

32.11.1 The Original Financial Statements were prepared in accordance with the Accounting Principles consistently applied.

32.11.2 The Original Financial Statements give a true and fair view of its financial condition as at the end of the relevant year and results of operations during the relevant financial year.

32.11.3 There has been no material adverse change in its assets, business or financial condition since the date of the Original Financial Statements.

32.11.4 The most recent financial statements delivered pursuant to Condition 33.1 (Financial Statements):

32.11.4.1 have been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements; and

32.11.4.2 give a true and fair view of (if audited) or fairly present (if unaudited) it's consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.

32.12 **No Proceedings Pending or Threatened**

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which are reasonably likely to be adversely determined and which, if adversely determined, might reasonably be expected to result in a Material Adverse Change has been started or (to the best of its knowledge and belief, having made due and careful enquiry) threatened against it or any other Material Company.

32.13 **Anti-corruption law**

32.13.1 It is not (and no other member of the Group is):

32.13.1.1 using nor will use the proceeds of any Preference Share for the purpose of financing or making funds available directly or indirectly to any person or entity which is currently a Sanctioned Entity or as part of a Sanctioned Transaction, to the extent such financing or provision of funds would currently be prohibited by Sanctions or would otherwise cause any person to be in breach of Sanctions;

32.13.1.2 contributing nor will contribute or otherwise make available the proceeds of any Preference Share 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, to the extent such contribution or provision of proceeds would currently be prohibited by Sanctions or would otherwise cause any person to be in breach of Sanctions; and

32.13.2 To the best of its knowledge and belief , neither it nor any other member of the Group:

32.13.2.1 has been nor is targeted under any Sanctions; or

32.13.2.2 has violated nor is violating any applicable Sanctions.

32.14 **Security and Indebtedness**

32.14.1 No Security or Quasi-Security (as defined in Condition 37.6 (Access to Books and Records)) exists over all or any of the present and future assets of the Issuer.

32.14.2 Other than any Indebtedness contemplated in Condition 35.9.3, no Material Company has any Indebtedness outstanding other than Indebtedness contemplated in the Finance Documents or which has been disclosed to the Preference Share Agent in writing prior to the Issue Date.

32.15 **Good title to assets**

It and each other Material Company has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary and material to carry on its business as presently conducted.

32.16 **Insolvency**

32.16.1 No:

32.16.1.1 corporate action, legal proceeding or other procedure or step described in Condition 15.1.12; or

32.16.1.2 creditors' process described in Condition 15.1.14,

1.1.1 has been taken or, to the knowledge of the Issuer (after due and careful enquiry), threatened in relation to any Material Company and none of the circumstances described in Condition 15.1.13 applies to a Material Company.

32.16.2 To the best of its knowledge no Material Company is financially distressed (as defined in the Companies Act) and there is no reasonable likelihood of any Material Company becoming financially distressed (as defined in Companies Act) within the next 6 (six) Months.

32.17 **No breach of laws**

No Material Company has breached any law or regulation necessary and material to the conduct of its business.

32.18 **Taxation**

32.18.1 Each Material Company has duly and punctually paid and discharged all Taxes imposed upon it or its assets within a time period allowed without incurring penalties except to that extent that:

- 32.18.1.1 payment is being contested in good faith;
 - 32.18.1.2 it has maintained adequate provisions for those taxes; and
 - 32.18.1.3 payment can be lawfully withheld.
- 32.18.2 No claims have been made, and to the best of its knowledge and belief (having made due and careful enquiries) no claims are reasonably likely to be made, and no investigations are being, or are reasonably likely to be, conducted against any Material Company with respect to Taxes, other than where any such claim arises as a result of the exceptions set out in Condition 32.18.1.1 to 32.18.1.3.

32.19 **Environmental laws**

- 32.19.1 To the best of its knowledge and belief (after having made due and careful enquiry) each member of the Group is in compliance with Condition 35.3 (Environmental compliance).
- 32.19.2 No circumstances have occurred which would prevent compliance with Condition 35.3 (Environmental compliance) in a manner or to an extent which has or is reasonably likely to result in a Material Adverse Change or result in a financial liability for a Preference Shareholder or the Issuer.
- 32.19.3 All Environmental Permits required for any member of the Group to carry on their respective businesses in the ordinary course have been obtained or effected and are in full force and effect where failure to do so has or is reasonably likely to result in a Material Adverse Change or in any liability for a Preference Shareholder or the Issuer.
- 32.19.4 No Environmental Claim has been commenced or (to the best of its knowledge and belief (having made due and careful enquiry)) is threatened against it where that claim has or is reasonably likely, if determined against any member of the Group, to result in a Material Adverse Change or is reasonably likely to result in any liability for a Preference Shareholder or the Issuer.
- 32.19.5 The cost to each member of the Group of compliance with Environmental Laws (including Environmental Permits) is (to the best of its knowledge and belief, having made due and careful enquiry) adequately provided for.

32.20 **Preference Shares**

- 32.20.1 The Issuer does not have any class of shares which rank in priority to the Preference Shares in any respect.
- 32.20.2 Other than the Unspecified Shares, which rank *pari passu* amongst themselves and with the Preference Shares, the Issuer does not have any class of shares which rank *pari passu* to the Preference Shares in any respect.
- 32.20.3 The Issuer shall ensure that, prior to any Distribution, the Board complies with section 46 of the Companies Act in relation to such Distribution.
- 32.20.4 The Preference Shares shall not constitute "hybrid equity instruments" or "third party backed shares" as those terms are defined in section 8E and section 8EA of the Income Tax Act, respectively (other than where solely by reason of the Preference Shareholder, without the consent of the Issuer, has as a separate and distinct transaction entered into any agreement with a third party, and which results in such Preference Shares becoming "*third party backed shares*" as envisaged in section 8EA (2) of the Income Tax Act).

32.21 **Repetition**

- 32.21.1 The Repeating Representations are deemed to be made on each Repetition Date by the Issuer by reference to the facts and circumstances then existing on that Repetition Date.
- 32.21.2 For the purposes of Condition 32.21.1:

- 32.21.2.1 “**Repeating Representations**” means the representations and warranties contained in this Condition 32 other than Conditions 32.7 (Deduction of Tax), 32.12 (No Proceedings Pending or Threatened) and 32.16 (Insolvency);
- 32.21.2.2 “**Repetition Date**” means each date from the first Issue Date until the Discharge Date.
- 32.21.3 The Post-Redemption Representations are deemed to be made by the Company on each Post-Redemption Warranty Date.
- 32.21.4 For the purposes of Condition 32.21.3:
- 32.21.4.1 “**Post-Redemption Representations**” means the Representations contemplated in Conditions 32.1 (Status), 32.2 (Binding Obligations), 32.3 (Non-conflict With Other Obligations), 32.4 (Power and Authority), 32.5 (Validity and admissibility in evidence), 32.9 (Breach), 32.12 (No Proceedings Pending or Threatened), 32.16 (Insolvency), 32.18 (Taxation), 32.19 (Environmental laws);
- 32.21.4.2 “**Post-Redemption Warranty Date**” means each day from, the Discharge Date until Final Discharge Date.

32.22 **Reliance**

The Preference Shareholders have entered into the Finance Documents on the strength of, and relying on, the Representations, each of which shall be deemed to be a separate Representation given without prejudice to any other Representation deemed to be a material representation inducing the Preference Shareholders to enter into the Finance Documents to which each of them is a party.

33. **INFORMATION UNDERTAKINGS**

The undertakings in this Condition 33 remain in force from the Issue Date until the Discharge Date.

33.1 **Financial Statements**

The Issuer shall deliver to the Preference Share Agent, in sufficient copies for all Preference Shareholders:

- 33.1.1 as soon as the same become available, but in any event not later than 120 (one hundred and twenty) days after the last day of each Financial Year the audited annual financial statements of the Issuer;
- 33.1.2 as soon as the same become available, but in any event not later than 120 (one hundred and twenty) days after the last day of each Financial Year the consolidated audited annual financial statements of the Issuer;
- 33.1.3 as soon as the same become available, but in any event not later than 90 (ninety) days after the last day of each Financial Half-Year, the consolidated semi-annual reviewed financial statements of the Issuer;
- 33.1.4 as soon as the same become available, but in any event not later than 180 (one hundred and eighty) days after the last day of each Financial Year the audited (to the extent that they are required to be audited) annual financial statements of each Material Company;
- 33.1.5 as soon as the same become available, but in any event not later than 180 (one hundred and eighty) days after the last day of each Financial Year the consolidated audited (to the extent that they are required to be audited) annual financial statements of each Material Company (to the extent prepared by the Group);
- 33.1.6 promptly, but in any event within 5 (five) Business Days of request from the Preference Share Agent, which request shall be made no sooner than 30 (thirty) days after the last day each Financial Quarter management accounts of each Material Company (to the extent prepared by the Group).

33.2 **Provision and Contents of Compliance Certificate**

33.2.1 The Issuer shall supply a Compliance Certificate to the Preference Share Agent:

33.2.1.1 within 75 (seventy five) days of each Measurement Date;

33.2.1.2 promptly on request by the Preference Share Agent, at any time if the Preference Share Agent or any Preference Shareholder suspects at that time that the Issuer is not in compliance with Condition 34 (Financial Covenants).

33.2.2 If the Preference Share Agent disputes the calculations contained in any Compliance Certificate, within 5 (five) Business Days of delivery of the relevant Compliance Certificate, the Preference Share Agent and the Issuer shall appoint an independent expert, by agreement (and if no agreement is reached within three Business Days of any such party calling for such agreement in writing, any one of Deloitte, PWC, KPMG and E&Y or an independent merchant bank shall be appointed at the instance of any party by the president of the time being of the Southern African Institute of Chartered Accountants or the successor body thereto), to determine the relevant calculation on the basis that:

33.2.2.1 the expert valuer shall act as an expert and not an arbitrator in making its determination;

33.2.2.2 the expert valuer shall be requested to make its determination as speedily as possible, but in any event within five Business Days of its appointment (or such longer period as the Issuer and the Preference Share Agent may agree);

33.2.2.3 the expert valuer shall in writing advise the Issuer and the Preference Share Agent of its determination, shall give written reasons for its decision, and shall in such notice provide reasonable detail of its calculations;

33.2.2.4 any determination by the expert valuer shall, in the absence of manifest error, be final and binding on the Parties; and

33.2.2.5 the liability for the expert valuer's costs shall be borne by the Party whose calculation differs by more than 5% of the expert valuer's determination (and to the extent that such Party is the Preference Share Agent, the cost shall be borne by the Preference Shareholders) and should both Parties' calculations differ either by more than or less than 5% of the expert valuer's determination, the expert valuer's costs shall be shared equally between the Issuer and the Preference Shareholders.

33.2.3 If applicable, each Compliance Certificate shall, amongst other things:

33.2.3.1 set out (in reasonable detail) computations as to compliance with Condition 34 (Financial Covenants);

33.2.3.2 certify whether or not as at the Measurement Date the Issuer is in compliance with Condition 34 (Financial Covenants);

33.2.3.3 confirm that no Potential Trigger Event has occurred and is continuing or, if a Potential Trigger Event has occurred, what Potential Trigger Event has occurred and the steps being taken to remedy that Potential Trigger Event.

33.2.4 Each Compliance Certificate shall be signed by the chief executive officer or financial director of the Issuer.

33.3 **Valuation of Property**

33.3.1 The Issuer shall supply:

33.3.1.1 a Valuation for each Property with each set of annual financial statements; provided that Issuer shall ensure that the Valuation is completed by the Valuer at least once in every 3 (three) consecutive year period;

- 33.3.1.2 copies of all material correspondence with insurance brokers handling the insurance of any Property, if such correspondence relates to a claim or potential claim, the aggregate proceeds of which are at least £500,000 (five hundred thousand Pounds Sterling) (or its equivalent in any other currency or currencies); and
- 33.3.1.3 any other information in relation to a Property reasonably requested by the Preference Share Agent.
- 33.3.2 If the Issuer delivers a Valuation which has not been prepared by the Valuer (a “**Management Valuation**”), the Preference Share Agent shall be entitled, within 20 Business Days of receipt of the Management Valuation, to require the Issuer to cause to be prepared as soon as reasonably practical and at its own expense, a Valuation conducted by the Valuer (“**Valuer Valuation**”) for the subject Property of the Management Valuation and deliver such Valuer Valuation no later than 45 Business Days after such request, provided that if the Valuer Valuation is not more than 10% (ten percent) lower than the Management Valuation or the Valuer Valuation demonstrates that a Trigger Event has not occurred, then the Preference Shareholders will be liable for the expense of such Valuer Valuation.
- 33.3.3 If Potential Trigger Event has occurred and is continuing, the Preference Share Agent shall be entitled to require the Issuer to cause to be prepared as soon as reasonably practical and at its own expense, a Valuer Valuation for each Property and deliver such Valuer Valuation no later than 45 Business Days after such request, provided that if the Valuer Valuation is not more than 10% (ten percent) lower than the latest Management Valuation or Valuer Valuation (as the case may be) or the Valuer Valuation demonstrates that a Potential Trigger Event has not occurred, then the Preference Shareholders will be liable for the expense of such Valuer Valuation.
- 33.4 **Monitoring of Property**
- 33.4.1 The Preference Share Agent, may, following delivery by the Issuer of a Compliance Certificate in accordance with Condition 33.2 (Provision and Contents of Compliance Certificate) or upon the occurrence of a Potential Trigger Event, request the Issuer to supply, within 5 (five) Business Days of such request, to the Preference Share Agent, in form and substance satisfactory to the Preference Share Agent:
 - 33.4.1.1 a schedule of the existing occupational tenants of each Property, showing for each such tenant the rental, service charge, value added tax and any other amounts payable in that period by those tenants;
 - 33.4.1.2 copies of any management accounts and management cashflows produced by, or for, any Material Company;
 - 33.4.1.3 details of:
 - 33.4.1.3.1 any arrears of rent or service charges under any Lease Document; and
 - 33.4.1.3.2 any other breaches of covenant under any Lease Document,
 - 1.1.1.1 and any step being taken to recover or remedy them;
 - 33.4.1.4 details of any insolvency, resolution or similar proceedings affecting any occupational tenant of a Property or any guarantor of that occupational tenant;
 - 33.4.1.5 details of any rent reviews with respect to any Lease Document in progress or agreed;
 - 33.4.1.6 details of any Lease Document which has expired or been determined or surrendered and any new letting proposed; and
 - 33.4.1.7 any other information in relation to a Property reasonably requested by the Preference Share Agent in order to assess the performance of a Property.

33.5 **Information: Miscellaneous**

33.5.1 The Issuer shall supply to the Preference Share Agent (in sufficient copies for all the Preference Shareholders, if the Preference Share Agent so requests):

33.5.1.1 all documents dispatched by any Material Company to its creditors generally at the same time as they are dispatched;

33.5.1.2 as soon as reasonably possible, upon amending the Constitutional Documents of a Material Company, written notice of such amendment and a copy of the applicable amended Constitutional Document;

33.5.1.3 as soon as reasonably practicable upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any Material Company or its assets and which, if adversely determined, are reasonably likely to result in a Material Adverse Change; and

33.5.1.4 promptly, such further information regarding the financial condition, business, assets and operations of any Material Company as the Preference Share Agent may reasonably request.

33.6 **Notification of Potential Trigger Event**

33.6.1 The Issuer shall notify the Preference Share Agent of any Potential Trigger Event (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

33.6.2 Promptly upon a request by the Preference Share Agent, the Issuer shall supply to the Preference Share Agent a certificate signed by two of its directors or senior officers on its behalf certifying that no Potential Trigger Event is continuing (or if a Potential Trigger Event is continuing, specifying the Potential Trigger Event and the steps, if any, being taken to remedy it).

33.7 **Know Your Customer Requirements**

If:

33.7.1 the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the Issue Date;

33.7.2 any mandatory provision of any applicable law and/or any ongoing compliance requirement;

33.7.3 any change in the status of the Issuer or the composition of the shareholders of the Issuer after the Issue Date; or

33.7.4 a proposed transfer by a Preference Shareholder of its Preference Shares and any of its rights and/or obligations under the Finance Documents to a party that is not a Preference Shareholder prior to such transfer,

obliges the Preference Shareholder (or, in the case of Condition 33.7.4, any prospective new Preference Shareholder) to comply with "know your customer" or similar identification procedure (whether in terms of the Financial Intelligence Centre Act, 2001 or otherwise) in circumstances where the necessary information is not already available to it, the Issuer shall promptly upon the request of any Preference Shareholder supply, or procure the supply of, such documentation and other evidence as is reasonably requested by any Preference Shareholder (for itself or, in the case of the event described in Condition 33.7.4, on behalf of any prospective new Preference Shareholder) in order for such Preference Shareholder or, in the case of the event described in Condition 33.7.4, any prospective new Preference Shareholder to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

34. FINANCIAL COVENANTS

34.1 Financial Condition

The Issuer shall ensure that for so long as any Preference Share remains outstanding:

34.1.1 Loan to Value

34.1.1.1 the Issuer LTV is not more than 65% (sixty five percent);

~~34.1.1.2 the Market Place LTV is not more than 65% (sixty five percent);~~

~~34.1.1.3~~34.1.1.2 the Portfolio Properties LTV is not more than ~~64~~65% (sixty ~~four~~five percent);

34.1.2 Interest Cover Ratio

34.1.2.1 the Issuer Interest Cover Ratio is not less than 1.3 (one point three) times;

~~34.1.2.2 the Market Place Interest Cover Ratio is not less than 2.25 (two point two five) times;~~

~~34.1.2.3~~34.1.2.2 the Portfolio Properties Interest Cover Ratio is not less than 2.25 (two point two five) times;

34.1.3 Vacancy Rate

34.1.3.1 The Vacancy Ratio of the ~~Market Place Property~~Portfolio Properties may not fall below ~~85~~80% (eighty ~~five~~ percent) throughout the Term.

~~34.1.3.2 The Vacancy Ratio of the Portfolio Properties may not fall below 87.5% (eighty seven point five percent) throughout the Term.~~

~~34.1.3.3~~34.1.3.2 For the purposes of this Condition 34.1.3:

~~34.1.3.3.1~~34.1.3.2.1 Portfolio Properties will exclude the following Properties:

~~34.1.3.3.1.1~~34.1.3.2.1.1 the properties known as and forming Westbourne Centre, Kelburn Street, Barrhead, Glasgow G78 1LR being the subjects registered in the Land Register of Scotland under Title Number REN3350; (SECOND) ALL and WHOLE the subjects known as and forming Westbourne Centre, Kelburn Street, Barrhead, Glasgow G78 1LR being the subjects registered in the Land Register of Scotland under Title Number REN112124; and (THIRD) ALL and WHOLE the subjects known as and forming Westbourne House, Kelburn Street, Glasgow G78 1LR being the subjects registered in the Land Register of Scotland under Title Number REN19628 (“**Barrhead**”)

~~34.1.3.3.1.2~~34.1.3.2.1.2 the property being land on the south side of Wilmington Street, Leeds registered under Title Number WYK585103 and land and buildings on the north side of Wilmington Street, Leeds registered under Title Number YWE66038 (“**Wilmington Grove**”);

~~34.1.3.3.1.3~~34.1.3.2.1.3 the shop on the ground and first floor of the tenement 42 High Street, Johnstone PA5 8AN being the subjects registered in the Land Register of Scotland under Title Number REN39022 (“**Johnstone**”); and

~~34.1.3.3.1.4~~ the property known as KA26 9BS being the subjects registered in the Land Register of Scotland under Title Number AYR24077 (“**Girvan**”); and

~~34.1.3.3.1.5~~34.1.3.2.1.4 the property situated at 119 – 125 Marygate, Berwick-upon-Tweed and known as 1, 5 and 6 Scotsgate House, Marygate, Berwick-~~Upon~~upon-Tweed being, the land registered under Title Numbers ~~ND176467,~~ ND176468 and ND176469 (“**Berwick-upon-Tweed**”);

~~34.1.3.3.2~~34.1.3.2.2 “**Gross Lettable Area**” means, in relation to a Property, the area, measured in square meters, of that Property which is capable of being let;

~~34.1.3.3.3~~34.1.3.2.3 “**Vacancy Ratio**” means the ratio (expressed as a percentage) between:

~~34.1.3.3.3.1~~34.1.3.2.3.1 the Gross Lettable Area which is not vacant; and

~~34.1.3.3.3.2~~34.1.3.2.3.2 the Gross Lettable Area;

~~34.1.3.3.4~~34.1.3.2.4 rented area is considered “**vacant**” if:

~~34.1.3.3.4.1~~34.1.3.2.4.1 no Lease Document exists with on-going rental payment obligations in the relevant Property; or

~~34.1.3.3.4.2~~34.1.3.2.4.2 a Lease Document will terminate within the next 1 (one) Month after the Measurement Date, provided that no new Lease Document is concluded which will take effect immediately after that Lease Document so terminates.

1.1.1.2 provided that a rented area will not be considered “vacant” if the Property is being refurbished, extended or renovated with the prior written consent of the Preference Share Agent.

34.1.4 Minimum NAV

the Net Asset Value of the Group is not less than £300,000,000 (three hundred thousand Pounds Sterling).

34.2 Financial Testing

34.2.1 The Financial Covenants shall be tested as at:

34.2.1.1 each Measurement Date by reference to the financial statements delivered pursuant to Condition 33.1 (Financial Statements) and each Compliance Certificate delivered pursuant to Condition 33.2 (Provision and Contents of Compliance Certificate);

34.2.1.2 any other date on which the Preference Share Agent determines by reference to the most recent financial statements or Valuation delivered pursuant to Condition 35 (General Undertakings).

34.2.1.3 The functional currency of the Group is GBP and:

34.2.1.3.1 in respect of, all Financial Covenants (other than any Interest Cover Ratio) all amounts will be measured on a sterling basis and where an amount is denominated in:

34.2.1.3.1.1 ZAR, such amount shall be converted to GBP at the Weighted Hedged Exchange Rate; and

34.2.1.3.1.2 all other currencies, shall be converted to GBP at the prevailing spot exchange rates applicable at the time of calculation; and

34.2.1.3.2 in respect of any Interest Cover Ratio, any amount:

34.2.1.3.2.1 which has been hedged, will be the GBP amount payable in respect of such interest as determined in accordance with the relevant Hedging Agreement;

34.2.1.3.2.2 which has not been hedged, shall be converted to GBP using the conversion methodology (including the timing of the conversion) consistently applied by the Group in the Financial Statements.

34.3 Equity Cure

34.3.1 If the requirements of 34.1 (Financial Condition) are not, or anticipated not to be, met for any Measurement Period (each a “**Relevant Measurement Period**”), the Issuer shall be entitled to remedy or avoid, as the case may be, such breach with New Equity or New Shareholder Debt, or in the form of a combination of such New Equity or New Subordinated Debt, and depositing such amounts (the “**Cure Amounts**”) into the Reserve Account.

34.3.2 Upon payment of the Cure Amount into the Reserve Account or application of the Cure Amount towards the voluntary redemption of the Preference Shares, the following Financial Covenants shall be re-calculated by:

34.3.2.1 in relation to the Issuer Interest Cover Ratio, ~~the Market Place Interest Cover Ratio~~ and the Portfolio Properties Interest Cover Ratio, by reducing the finance cost (as contemplated in the definition of Interest Cover Ratio) for the Relevant Measurement Period as if the Cure Amount had been applied in repaying amounts outstanding under the ~~Market Place Facility~~, Portfolio Properties ~~Facility~~Facilities or any Outstanding Preference Share Obligations (as applicable) at the commencement of the Relevant Measurement Period;

34.3.2.2 in relation to the Issuer LTV, ~~the Market Place LTV~~ or the Portfolio Properties LTV, by reducing the Total Debt, ~~the outstandings under the Market Place Facility~~ or the outstandings under the Portfolio Properties ~~Facility (as applicable)~~Facilities as at the relevant Measurement Period

34.3.3 Unless the Preference Share Agent consents otherwise in writing, there shall be no more than two Equity Cures during the Term and no Equity Cure within any consecutive Measurement Periods.

34.3.4 Nothing in this Condition 34.3 shall oblige the Issuer to redeem any Unredeemed Preference Shares

35. GENERAL UNDERTAKINGS

The undertakings in this Condition 35 (other than the undertaking in Conditions 35.1 (Authorisations), to 35.5 (Anti-corruption law and sanctions) (both inclusive)) remain in force from the Issue Date until the Discharge Date. Each undertaking shall be a separate undertaking and shall in no way be limited to or restricted by reference to or by inference from the terms of any other undertaking, or by any words of any of the Finance Documents. The undertakings in Conditions 35.1 (Authorisations) to 35.5 (Anti-corruption law and sanctions) remain in force until the Final Discharge Date.

35.1 Authorisations

The Issuer shall promptly:

- 35.1.1 obtain, comply with and do all that is necessary to maintain in full force and effect; and
- 35.1.2 supply certified copies to the Preference Share Agent of,
any Authorisation required under any law or regulation of its jurisdiction of incorporation to:
- 35.1.3 enable it to perform its obligations under the Finance Documents;
- 35.1.4 to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document; and
- 35.1.5 carry on its business where failure to do so has or is reasonably likely to result in a Material Adverse Change.

35.2 **Compliance with Laws**

The Issuer shall (and it shall procure that each other member of the Group will) comply in all respects with all laws to which it may be subject to the extent required for the conduct of its business.

35.3 **Environmental compliance**

The Issuer shall (and it shall procure that each member of the Group will):

- 35.3.1 comply with all Environmental Law;
- 35.3.2 obtain, maintain and ensure compliance with all requisite Environmental Permits; and
- 35.3.3 implement procedures to monitor compliance with and to prevent liability under any Environmental Law,
where failure to do so has or is reasonably likely to result in a Material Adverse Change or would result in a financial liability for the Preference Shareholders or the Issuer.

35.4 **Environmental claims**

The Issuer shall, promptly upon becoming aware of the same, inform the Preference Share Agent in writing of:

- 35.4.1 any Environmental Claim against any member of the Group which is current, pending or threatened; and
- 35.4.2 any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group,
where the claim, if determined against that person, has or is reasonably likely to result in a Material Adverse Change or would result in a financial liability for any Preference Shareholder or the Issuer.

35.5 **Anti-corruption law and sanctions**

35.5.1 The Issuer shall not (and it shall procure that no member of the Group will):

- 35.5.1.1 contravene any Sanctions;
- 35.5.1.2 be a party to or participate in a Sanctioned Transaction in any manner; or
- 35.5.1.3 directly or indirectly use the proceeds of any Preference Shares for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.

35.5.2 The Issuer shall (and it shall procure that each member of the Group will):

35.5.2.1 take all reasonable steps to ensure that appropriate controls and safeguards are in place, designed to prevent it from being or becoming involved in a Sanctioned Transaction; and

35.5.2.2 conduct its businesses, (to the best of the Issuer's knowledge and belief (after having made due and careful enquiry)) in compliance with applicable anti-corruption laws and maintain policies and procedures designed to promote and achieve compliance with such laws.

35.5.3 If any member of the Group:

35.5.3.1 is or becomes a Sanctioned Entity;

35.5.3.2 participates in any manner in any Sanctioned Transaction,

1.1.2 the Issuer shall notify the Preference Share Agent promptly upon becoming aware of that event.

35.6 **Material Companies**

The Issuer shall procure that no Material Company shall implement or undertake any of the following matters, without the prior written consent of the Preference Share Agent (acting on behalf of the Preference Shareholders):

35.6.1 increasing, altering, subdividing, repurchasing, reduction, return or repayment of any share capital, share premium, stated capital, non-distributable reserve account or reserves of the issued and/or authorised share capital of the relevant Material Company, including the issue and allotment of shares, share options, warrants and debentures (and other similar instruments) save for any share issues to the Holding Company of the Material Company;

35.6.2 amending, varying or cancelling any of the rights attaching to the ordinary shares held by the relevant Material Company;

35.6.3 amending the relevant Material Company's Constitutional Documents, other than for purposes of compliance with the JSE Listings Requirements or any Applicable Law;

35.6.4 approving a scheme of arrangement, liquidation, winding up or application for business rescue of the relevant Material Company;

35.6.5 changing the nature of the business of the relevant Material Company; or

35.6.6 undertaking any act that requires a special resolution to be passed under applicable company laws.

35.7 **Negative Pledge**

In this Condition 35.7,:

asset, when used in relation to the Issuer, excludes any asset which is a 'financial instrument' as contemplated in section 8E of the Income Tax Act.

Quasi-Security means an arrangement or transaction described in Condition 35.7.2.

35.7.1 Other than as contemplated below the Issuer shall not (and it shall procure that no Material Company will) create or permit to subsist any Security over any of its assets.

35.7.2 The Issuer shall not (and it shall procure that no Material Company will):

- 35.7.2.1 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;
 - 35.7.2.2 sell, transfer or otherwise dispose of any of its receivables on recourse terms;
 - 35.7.2.3 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
 - 35.7.2.4 enter into any other preferential arrangement having a similar effect,
- 1.1.3 in circumstances where the arrangement or transaction is entered into primarily as a method of raising Indebtedness or of financing the acquisition of an asset.

35.7.3 Condition 35.7.1 and 35.7.2 do not apply to:

- 35.7.3.1 any Security arising pursuant to the operation of law in the normal and ordinary course of the Issuer's or any other Material Company's business;
- 35.7.3.2 any Security contemplated under the Finance Documents;
- 35.7.3.3 any Security granted in favour of the Issuer to secure indebtedness under an Intercompany Loan; or
- 35.7.3.4 any Security created with the prior written approval of the Preference Share Agent.

35.8 Disposals

The Issuer shall not (and, other than the disposal of the Property at Skelmersdale, shall procure that no Material Company shall) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise Dispose of any asset that is subject to any Security under any Security Charge or any amounts standing to the credit of any non-interest bearing accounts held by the Issuer, without the prior written consent of the Preference Share Agent and for the purposes of this Condition 35.8 **asset**, when used in relation to the Issuer, excludes any asset which is a 'financial instrument' as contemplated in section 8E of the Income Tax Act. Nothing in this Condition 35.8 shall in any way prohibit the grant of an Occupational Lease.

35.9 Indebtedness

- 35.9.1 Except as provided in Condition 35.9.3 below, the Issuer shall not (and it shall procure that no Material Company will) incur or allow to remain outstanding any Indebtedness.
- 35.9.2 The Issuer shall not subordinate any claims that it has or may have against any person to the claims of a third party against such person.
- 35.9.3 Condition 35.9.1 above does not apply to:
 - 35.9.3.1 any Indebtedness incurred under the Finance Documents;
 - 35.9.3.2 any Indebtedness incurred pursuant to the Inception Treasury Transaction;
 - 35.9.3.3 any Indebtedness incurred by any Material Company in the ordinary course of business, other than the Issuer, under Permitted Trade Credit;
 - 35.9.3.4 any Indebtedness owing by any Material Company (other than the Issuer) to another Material Company on account of inter-company loans made by any Material Company (other than the Issuer) to such other Material Company, provided that such claims of such Material Company have been subordinated in favour of the claims of the Issuer under the Intercompany Loans;

- 35.9.3.5 any Indebtedness incurred by Inception Holdings S.à r.l in favour of Moorgarth Group Limited and/or Europrop Holdings Limited and subject to a subordination deed in favour of the Issuer.
- 35.9.3.6 any Indebtedness which the Issuer or any other Material Company incurs for purposes of a Refinance, provided that all, and not only some of, the Unredeemed Preference Shares are redeemed from the proceeds of such Indebtedness, subject to the payment of the Refinance Preference Dividend in accordance with Condition 7.6.1;
- 35.9.3.7 any Indebtedness incurred pursuant to an Intercompany Loan;
- 35.9.3.8 in the case of the Issuer, any New Shareholder Debt;
- 35.9.3.9 any Indebtedness which is existing at the Programmes Date and disclosed to the Preference Share Agent, provided that the principal amount of or the amount of the original facility granted as at the Signature Date of such Indebtedness will not increase from the ~~Programme~~Programmes Date other than in accordance with their existing terms;
- 35.9.3.10 any Indebtedness incurred with the prior written consent of the Preference Share Agent.

35.10 Lending and guarantees

- 35.10.1 Except as provided below, the Issuer shall not (and it shall procure that no Material Company will) be the creditor in respect of any loan or any form of credit to any person other than a member of the Group.
- 35.10.2 The Issuer shall not apply any amounts standing to the credit of any non-interest bearing accounts to make a loan or to extend credit to any person.
- 35.10.3 Condition 35.10.1 above does not apply to:
 - 35.10.3.1 any loan made by the Issuer prior to the Issue Date; and
 - 35.10.3.2 any loan made by the Issuer with the prior approval of the Preference Share Agent.
- 35.10.4 The Issuer shall ensure that all Intercompany Loans are repayable on demand.
- 35.10.5 The Issuer shall not (and it shall procure that no Material Company will) give or allow to be outstanding any guarantee or indemnity to or for the benefit of any person in respect of any obligation of any other person or enter into any document under which that Material Company assumes any liability of any other person other than:
 - 35.10.5.1 any limited guarantee given by a Material Company to another Material Company for the obligation of an Intercompany Loan;
 - 35.10.5.2 any guarantee or indemnity given under the Finance Documents, ~~the Market Place Guarantee or the~~ or a Portfolio Guarantee; or
 - 35.10.5.3 any other guarantee given with the prior approval of the Preference Share Agent.

35.11 Merger

The Issuer shall not (and it shall procure that no Material Company will) enter into any amalgamation, demerger, merger or corporate reconstruction, other than any reorganisation entered into with the prior written consent of the Preference Share Agent.

35.12 Acquisitions

The Issuer shall not (and it shall procure that no Material Company will):

35.12.1 acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them); or

35.12.2 incorporate a company,

other than the acquisition by the Issuer with the prior written consent of the Preference Share Agent.

35.13 **Change of Business**

The Issuer shall procure that no substantial change is made to the general nature of the business of a Material Company that carried on at the Issue Date.

35.14 **Joint Ventures**

The Issuer shall not enter into any Joint Venture established in the form of an unlimited partnership.

35.15 **Distributions**

35.15.1 The Issuer shall not declare and pay any Distributions other than:

35.15.1.1 Preference Dividends;

35.15.1.2 redemption of Preference Shares;

35.15.1.3 redemption of "A" Preference Shares and payment of distributions in respect of the "A" Preference Shares,

35.15.2 For so long as a Potential Trigger Event is continuing or a Trigger Event has occurred, the Issuer shall only declare and pay Distributions to the Preference Shareholders.

35.16 **Ownership**

The Issuer shall ensure that at all times it legally and beneficially owns and controls the entire share capital of Tradegro.

35.17 **Preference Shares**

The Issuer shall maintain these Terms and Conditions and shall ensure that the Preference Shares remain validly issued until redeemed in accordance with these Terms and Conditions.

36. **PROPERTY UNDERTAKINGS**

36.1 **Title**

36.1.1 The Issuer shall procure that each Material Company will exercise its rights and comply in all material respects with any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting its Property.

36.1.2 The Issuer shall procure that no Material Company will agree to any amendment, supplement, waiver, surrender or release of any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting any Property, except in writing:

36.1.2.1 to the extent that that amendment, variation, novation, supplement, superseding, waiver or termination is permitted by the Finance Documents; or

36.1.2.2 in the ordinary course of its operations, provided that such amendment, variation, novation, supplement, superseding, waiver or termination will not result in a Material Adverse Change or a breach of any Finance Document or Financial Covenant.

36.2 **Occupational Leases**

36.2.1 The Issuer shall procure that each Material Company will:

36.2.1.1 diligently collect or procure to be collected all rental income in respect to the Properties;

36.2.1.2 exercise its rights and comply with its obligations under each Lease Document save where failure to do will not result in a Material Adverse Change or a breach of any Finance Document or Financial Covenant; and

36.2.1.3 use its reasonable endeavours to ensure that each tenant complies with its obligations under each Lease Document,

1.1.4 in a proper and timely manner.

36.2.2 The Issuer shall procure that each Material Company will use its reasonable endeavours to find tenants for any vacant lettable space in the Properties with a view to granting a Lease Document in respect of that space.

36.3 **Maintenance**

36.3.1 The Issuer shall procure that each Material Company will ensure that all buildings, plant, machinery, fixtures and fittings on its Property are in and maintained in:

36.3.1.1 good and substantial repair and condition and, as appropriate, in good working order; and

36.3.1.2 such repair, condition and, as appropriate, good working order as to enable them to be let in accordance with all applicable laws and regulations.

save as may result from the carrying out of any Permitted Alterations.

36.3.2 The Issuer shall procure that each Material Company will carry out any energy efficiency improvements necessary, or take any other steps necessary, to ensure that at all times each part of its Property which is designed to be let can be let or can continue to be let without breaching any applicable laws or regulations in respect of minimum levels of energy efficiency for properties.

36.4 **Development**

36.4.1 The Issuer shall not (and it shall procure that no Material Company will) carry out, or allow to be carried out, any demolition, construction, structural alterations or additions, development or other similar operations in respect of any part of its Property, without the prior written consent of the Preference Share Agent.

36.4.2 Condition 36.4.1 above does not apply to:

36.4.2.1 the maintenance of the buildings, plant, machinery, fixtures and fittings in the ordinary course of business;

36.4.2.2 any alterations or improvements which a tenant is entitled to undertake in accordance with the terms of the relevant Lease Document and in respect of which a Material Company in its capacity as landlord is required to give its consent pursuant to the terms of that Lease Document;

36.4.2.3 the carrying out of non-structural improvements or alterations which affect only the interior of any building on a Property;

36.4.2.4 any maintenance, alterations or improvements made with the prior written consent of the Preference Share Agent; or

36.4.2.5 Permitted Alterations.

36.4.3 The Issuer shall procure that each Material Company will comply in all respects with all planning laws, permissions, agreements and conditions to which its Property may be subject.

36.5 Notices

The Issuer shall procure that each Material Company will within 14 (fourteen) days after the receipt by it of any application, requirement, order or notice served or given by any public or local or any other authority or any landlord with respect to its Property (or any part of it):

36.5.1 deliver a copy to the Preference Share Agent; and

36.5.2 inform the Preference Share Agent of the steps taken or proposed to be taken to comply with the relevant requirement, order or notice.

36.6 Power to remedy

36.6.1 If the Issuer fails to perform any obligations under the Finance Documents affecting the Property, the Issuer shall (and shall procure that each Material Company will) allow the Preference Share Agent or its agents and contractors on giving reasonable notice and subject always to the rights of tenants and other occupiers under the applicable Lease Agreement:

36.6.1.1 to enter any part of its Property;

36.6.1.2 to comply with or object to any notice served on that Material Company in respect of its Property; and

36.6.1.3 to take any action that the Preference Share Agent may reasonably consider necessary or desirable to prevent or remedy any breach of any such term or to comply with or object to any such notice.

36.6.2 The Issuer shall immediately on demand supply the Preference Share Agent with any applicable Lease Agreement to enable the Preference Share Agent to enforce its rights under Condition 36.6.1.

36.6.3 The Issuer shall (and it shall procure that each Material Company will), immediately on demand, pay the costs and expenses of the Preference Share Agent or its agents and contractors incurred in connection with any action taken by it under this Condition 36.6.

36.7 Insurances

36.7.1 The Issuer must ensure that at all times from the Issue Date until the Discharge Date Insurances are maintained in full force and effect, which:

36.7.1.1 insure each Material Company in respect of its interests in each Property and the plant and machinery on each Property (including fixtures and improvements) for their full replacement value (being the total cost of entirely rebuilding, reinstating or replacing the relevant asset if it is completely destroyed, together with all related fees and demolition costs);

36.7.1.2 provide cover against loss or damage by fire, storm, tempest, flood, earthquake, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and all other normally insurable risks of loss or damage for a property of the type of the Properties;

36.7.1.3 provide cover for site clearance, shoring or propping up, professional fees and value added tax together with adequate allowance for inflation;

- 36.7.1.4 provide cover against acts of terrorism, including any third party liability arising from such acts;
 - 36.7.1.5 provide cover for loss of rent (in respect of a period of not less than three years or, if longer, the minimum period required under the Lease Documents) including provision for any increases in rent during the period of insurance;
 - 36.7.1.6 include property owners' public liability and third party liability insurance;
 - 36.7.1.7 insure such other risks as a prudent company or other person in the same business as the Material Company would insure; and
 - 36.7.1.8 in each case are in an amount, and in form, and with an insurance company or underwriters, acceptable at all times to the Preference Share Agent.
- 36.7.2 The Issuer must procure that the Insurances comply with the following requirements:
- 36.7.2.1 each of the Insurances must contain:
 - 36.7.2.1.1 a non-invalidation and non-vitiation condition under which the Insurance will not be avoided or vitiated as against any insured party as a result of any circumstances beyond the control of that insured party or any misrepresentation, non-disclosure, or breach of any policy term or condition, on the part of any other insured party or any agent of any other insured party;
 - 36.7.2.1.2 a waiver of the rights of subrogation of the insurer as against each Material Company and the tenants of each Property other than any such rights arising in connection with any fraud or criminal offence committed by any of those persons in respect of any Property or any Insurance; and
 - 36.7.2.2 each insurer must give at least 30 days' notice to the Issuer and the Issuer shall promptly inform the Preference Share Agent if it proposes to:
 - 36.7.2.2.1 repudiate, rescind or cancel any Insurance;
 - 36.7.2.2.2 treat any Insurance as avoided in whole or in part;
 - 36.7.2.2.3 treat any Insurance as expired due to non-payment of premium; or
 - 36.7.2.2.4 otherwise decline any valid claim under any Insurance by or on behalf of any insured party,
 - 1.1.4.1 and, in respect of Condition 36.7.2.2.3 above, must in the notice give the Preference Share Agent the opportunity to rectify any such non-payment of premium within the notice period; and
 - 36.7.2.3 the relevant Material Company must be free to assign or otherwise grant a security interest over all amounts payable to it under each of its Insurances and all its rights in connection with those amounts in favour of the Issuer.
- 36.7.3 The Issuer must use all reasonable endeavours to ensure that the Preference Share Agent receives copies of the Insurances, receipts for the payment of premium of Insurances and any information in connection with the Insurances and claims under them which the Preference Share Agent may reasonably require.
- 36.7.4 The Issuer must promptly notify the Preference Share Agent of:
- 36.7.4.1 the proposed terms of any future renewal of any of the Insurances;

- 36.7.4.2 any amendment, termination, avoidance or cancellation of any of the Insurances made or, to its knowledge, threatened or pending;
 - 36.7.4.3 any claim, and any actual or threatened refusal of any claim, under any of the Insurances; and
 - 36.7.4.4 any event or circumstance which has led or may lead to a breach by any Material Company of any term of this Condition 36.7.
- 36.7.5 The Issue shall procure that each Material Company will:
- 36.7.5.1 comply with the terms of the Insurances;
 - 36.7.5.2 not do or permit anything to be done which may make void or voidable any of the Insurances; and
 - 36.7.5.3 comply with all reasonable risk improvement requirements of its insurers.
- 36.7.6 The Issuer must ensure that:
- 36.7.6.1 each premium for the Insurances is paid within the period permitted for payment of that premium; and
 - 36.7.6.2 all other things necessary are done so as to keep each of the Insurances in force.
- 36.7.7 If the Issuer fails to comply with any term of this Condition 36.7, the Preference Share Agent may, at the expense of the Issuer, effect any insurance and generally do such things and take such other action as the Preference Share Agent may reasonably consider necessary or desirable to prevent or remedy any breach of this Condition 36.7.
- 36.7.8 Except as provided below, the proceeds of any Insurances must, if the Preference Share Agent so requires, be paid into the Reserve Account.
- 36.7.9 Condition 36.7.8 above does not apply in the following circumstances:
- 36.7.9.1 to the extent required by the basis of settlement under any Insurances or Lease Document, each Material Company must apply moneys received under any Insurances in respect of a Property towards replacing, restoring or reinstating that Property;
 - 36.7.9.2 the proceeds of any loss of rent insurance will be treated as rental income of the Properties and applied in such manner as the Preference Share Agent (acting reasonably) requires to have effect as if it were Rental Income received over the period of the loss of rent;
 - 36.7.9.3 moneys received under liability policies held by a Material Company which are required by that Material Company to satisfy established liabilities of the Material Company to third parties must be used to satisfy those liabilities.

37. **RESERVE ACCOUNTS**

37.1 **Opening and maintenance of the Reserve Account**

- 37.1.1 As from the Issue Date until the Discharge Date, the Issuer shall maintain the Reserve Account with the Account Bank in South Africa, in the name of the Issuer.
- 37.1.2 The Issuer undertakes to comply with all of the requirements of the Account Bank which apply to account holders of the Account Bank generally in opening and maintaining the Reserve Account.

37.2 **Operating Procedures**

The Issuer shall procure that the mandates and operating procedures for the Reserve Account shall be in accordance with the provisions of these Terms and Conditions and to the reasonable satisfaction of the Preference Share Agent.

37.3 **Deposits and Currency**

37.3.1 The Issuer shall ensure that all Cure Amounts and all amounts required to be reserved pursuant to Condition 31 (Mandatory Reserving) are paid into the Reserve Account.

37.3.2 The Reserve Account shall be Rand denominated accounts.

37.4 **Permitted Withdrawals**

37.4.1 The Issuer shall ensure that, until the Discharge Date, no withdrawals or transfers shall be made from the Reserve Account other than for purposes of the voluntary redemption of the Preference Shares.

37.4.2 No withdrawal, payment or transfer shall be made from the Reserve Account to the extent that the Reserve Account would become overdrawn.

37.5 **No Waiver**

37.5.1 The restrictions contained in any of the Finance Documents on the withdrawal of funds from the Reserve Account shall not affect the obligations of the Issuer to make all payments required to be made to the Preference Shareholders on the due date for payment in accordance with the Finance Documents.

37.5.2 Neither the ability of the Issuer to make any withdrawal from the Reserve Account in accordance with the Terms and Conditions nor any such withdrawal shall be construed as a waiver by the relevant Preference Shareholder of any of its rights or remedies under the Finance Documents or affect (to the extent possible) any of the security interests created pursuant to the Security Documents.

37.6 **Access to Books and Records**

The Issuer irrevocably grants to any Preference Shareholder and any of its authorised representatives the right, at any time prior to the Discharge Date, to review all books and records (including computer records) held by the Account Bank relating to the Reserve Account. The Issuer irrevocably instructs and authorises the Account Bank to provide any Preference Shareholder and any of its authorised representatives unrestricted access during normal business hours to review such books and records held by the Account Bank and any such information relating to the Reserve Account as a Preference Shareholder may at any time and from time to time, on reasonable written notice, request. The Issuer irrevocably waives any right of confidentiality which may exist to the extent necessary to allow disclosure of such books, records and information to any Preference Shareholder and its authorised representatives.

37.7 **Withdrawals Following a Trigger Event**

Upon the occurrence of a Potential Trigger Event which is continuing:

37.7.1 the Issuer may not withdraw any amount from the Reserve Account without the prior written consent of the Preference Share Agent;

37.7.2 all monies standing to the credit of the Reserve Account shall be utilised for the purpose of making payments or meeting obligations under the Finance Documents in accordance with the Finance Documents at the direction of the Preference Share Agent; and

37.7.3 the Issuer shall authorise the Account Bank, with effect from the occurrence of a Potential Trigger Event, to act, in respect of the Reserve Account, in accordance with the instructions of the Preference Share Agent (in accordance with the Finance Documents) only and the Issuer shall procure that the

Account Bank shall not allow any other withdrawals or disbursements from the Reserve Account other than in accordance with the instructions of the Preference Share Agent (in accordance with the Finance Documents).

38. PREFERENCE SHARE PURCHASE TRANSACTIONS

38.1 Prohibition of Preference Share Purchase Transactions by the Group:

38.1.1 Other than as contemplated in Condition 38.1.2, the Issuer shall procure that each other member of the Group shall not, enter into any Preference Share Purchase Transaction or beneficially own any of the Preference Shares.

38.1.2 Condition 38.1.1 does not apply to any Preference Share Purchase Transaction:

38.1.2.1 with the prior written consent of the Preference Share Agent (which consent is not to be unreasonably delayed); or

38.1.2.2 a subscription by management of a member of the Group under any management incentive programme or from the proceeds of any existing management incentive programme on the terms and conditions acceptable to the Preference Share Agent.

38.2 Disenfranchisement on Preference Share Purchase Transactions entered into by a member of the Group

38.2.1 For so long as a member of the Group:

38.2.1.1 beneficially owns a Preference Share; or

38.2.1.2 has entered into a sub participation agreement relating to a Preference Share or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated,

(a) in ascertaining:

38.2.1.2.1 the majority Preference Shareholders; or

38.2.1.2.2 whether:

38.2.1.2.2.1 any given percentage (including, for the avoidance of doubt, unanimity) of the Outstanding Preference Share Obligations and any voting rights contemplated in Condition 21 (Voting Rights); or

38.2.1.2.2.2 the agreement of any specified group of Preference Shareholders,

1.1.4.2 has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents such Outstanding Preference Share Obligations shall be deemed to be zero and such member of the Group or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Preference Shareholder for the purposes of Conditions 38.2.1.2.1 and 38.2.1.2.2 above (unless in the case of a person not being a member of the Group it is a Preference Shareholder by virtue otherwise than by beneficially owning the relevant Preference Share).

38.2.2 Each Preference Shareholder shall, unless such Preference Share Purchase Transaction is an assignment or transfer, promptly notify the Preference Share Agent in writing if it knowingly enters

into a Preference Share Purchase Transaction with a member of the Group (a “**Notifiable Share Purchase Transaction**”).

38.2.3 A Preference Shareholder shall promptly notify the Preference Share Agent if a Notifiable Share Purchase Transaction to which it is a party:

38.2.3.1 is terminated; or

38.2.3.2 ceases to be with a member of the Group.

38.2.4 Each member of the Group that is a Preference Shareholder agrees that:

38.2.4.1 in relation to any meeting or conference call to which all the Preference Shareholders are invited to attend or participate, it shall not attend or participate in the same if so requested by the Preference Share Agent or, unless the Preference Share Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and

38.2.4.2 in its capacity as Preference Shareholder, unless the Preference Share Agent otherwise agrees, it shall not be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Preference Share Agent or one or more of the Preference Shareholders.

38.3 **Groups’ notification to other Preference Shareholders of Preference Share Purchase Transactions**

Any member of the Group which is or becomes a Preference Shareholder and which enters into a Preference Share Purchase Transaction as a purchaser or a participant shall, by 5p.m. on the Business Day following the day on which it entered into that Preference Share Purchase Transaction, notify the Preference Share Agent of the number of Preference Shares it has purchased. The Preference Share Agent shall promptly disclose such information to the Preference Shareholders.

39. **ROLE OF THE PREFERENCE SHARE AGENT**

39.1 If at any time, there is more than one Preference Shareholder, each subsequent Preference Shareholder will appoint the Preference Share Agent to represent them in:

39.1.1 all their dealings with the Issuer arising under the Finance Documents to which it is a party;

39.1.2 the granting or withholding of any consent or approval which the Issuer requests from any Preference Shareholder under and in terms of the Finance Documents and the exercise of any discretion which is vested in the Preference Shareholders (or any of them) under and in terms of the Finance Documents;

39.1.3 the receipt of any financial statements and/or other documents or information which, in terms of the Finance Documents, the Issuer becomes obliged to supply to the Preference Shareholders (or some of them);

39.1.4 the giving of any notices which, in terms of the Finance Documents, the Issuer wishes to deliver to the Preference Shareholders (or any of them); and

39.1.5 the giving of any notices which, in terms of the Finance Documents, the Preference Shareholders (or some of them) wish to deliver to the Issuer,

the matters referred to in Conditions 39.1.1 to 39.1.5 hereinafter referred to as the “**Agency Matters**”.

39.2 Accordingly, the Issuer shall be entitled to deal with the Preference Share Agent in connection with all the Agency Matters and the Issuer shall not be obliged, in respect of any Agency Matter, to deal directly with any Preference Shareholder (except if such Preference Shareholder has been appointed as the Preference Share Agent).

- 39.3 Subject to Condition 39.4, the Issuer shall not be obliged, nor entitled, to act in accordance with any notice given to it pursuant to any Finance Document unless such notice is given by the Preference Share Agent, irrespective of the delivery of any conflicting notice by or on behalf of any other Preference Shareholder.
- 39.4 The Issuer shall be entitled to assume that the Preference Share Agent has been duly authorised to represent the Preference Shareholders in relation to the Agency Matters and in particular, but without limitation, the Issuer shall be entitled to assume that all actions performed by the Preference Share Agent in connection with the Agency Matters have been duly authorised by the Preference Shareholders.
- 39.5 The Issuer shall not be obliged or entitled to recognise the appointment of any replacement Preference Share Agent unless the Preference Shareholders have given written notice of such appointment, signed by each Preference Shareholder, to the Issuer. Until such written notice has been delivered to the Issuer, the Issuer shall be entitled to continue dealing with the person who was the Preference Share Agent prior to such new appointment.
- 39.6 Any reference in these Terms and Conditions to anything done or to be done by the Preference Share Agent (including, but without limitation, 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 Preference Shareholders.
- 39.7 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, unless the relevant loss or damage was caused by the wilful misconduct, fraud or gross negligence of the Preference Share Agent.
- 39.8 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 connection with the Agency Matters (save for any claims arising as a result of the fraud, gross negligence or wilful default of the Preference Share Agent).
- 39.9 All the provisions of these Terms and Conditions which confer rights or benefits on the Preference Share Agent constitute stipulations for the benefit of the Preference Share Agent which are capable of acceptance by the Preference Share Agent at any time.

40. **GENERAL**

- 40.1 Notwithstanding any provisions to the contrary in these and Conditions:
- 40.1.1 these Terms and Conditions may not be modified, amended, altered, varied, added to or abrogated;
- 40.1.2 the number of authorised shares of the Issuer of any class of shares may not be increased or decreased;
- 40.1.3 any classified shares that have been authorised but not issued may not be reclassified;
- 40.1.4 any unclassified shares that have been authorised but not issued may not be classified;
- 40.1.5 the preferences, rights, limitations and other terms of any class of Other Shares may not be determined; and
- 40.1.6 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 and/or in priority to the Preference Shares have been or shall be authorised, created or issued,

without the prior written consent of the Preference Share Agent and the prior sanction of a resolution passed at a separate class meeting of the Preference Shareholders held at the election of any Preference

Shareholder on written notice to the Issuer and the Preference Share Agent in the same manner *mutatis mutandis* as a special resolution.

- 40.1.7 Any provision of these Terms and Conditions which contemplates performance or observance subsequent to any termination or expiration of the Finance Documents or the redemption of the 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 any Preference Shareholder or its successors in title or assigns.

APPLICABLE PRICING SUPPLEMENT