

Amended and Restated Broker Dealer of Record Agreement

between

Leverage Shares Public Limited Company
as Issuer

and

GWM Limited
as Broker Dealer of Record

relating to

The Issuer's programme for the issuance of collateralised exchange traded securities (the "Programme")

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THIS AGREEMENT is dated 18 December 2020 and made

BETWEEN:

- (1) **LEVERAGE SHARES PUBLIC LIMITED COMPANY**, a company incorporated under the laws of Ireland under company number 597399 and having its registered office at 2nd Floor, Block 5, Irish Life Centre, Abbey Street Lower, Dublin 1, D01 P767, Ireland; and
- (2) **GWM Limited**, of 41 Cedar Avenue, 5th Floor, Hamilton, HM12, Bermuda ("**Broker Dealer of Record**"), which expression includes any successor broker dealer of record appointed hereunder).

Background

- (A) The Issuer has authorised the issue of exchange traded securities ("**ETP Securities**") under its Collateralised Exchange Traded Securities Programme (the "**Programme**") to be constituted pursuant to the Trust Deed and secured pursuant to the Trust Deed.
- (B) This Amended and Restated Broker Dealer of Record Agreement (the "**Broker Dealer of Record Agreement**") sets out the terms of the appointment of the Broker Dealer of Record in respect of the Programme.
- (C) This Broker Dealer of Record Agreement amends and restates the Broker Dealer of Record Agreement dated 5 February 2020 in respect of the Programme.

THE PARTIES AGREE AS FOLLOWS:

1 INTERPRETATION

1.1 Definitions

Capitalised terms used in this Broker Dealer of Record Agreement but not otherwise defined shall have the meanings given to them in the Master Definitions Schedule (as amended, supplemented and/or replaced from time to time) relating to the Programme.

1.2 Construction of certain references

References to:

- (A) an action, remedy or method of judicial proceedings for the enforcement of creditors' rights include references to the action, remedy or method of judicial proceedings in jurisdictions other than Ireland as shall most nearly approximate thereto;
- (B) any provision of any statute shall be deemed also to refer to any statutory modification or re-enactment thereof, or any statutory instrument, order or regulation made thereunder or under such modification or re-enactment;
- (C) clauses and schedules shall be construed as references to, respectively, the clauses of and schedules to this Broker Dealer of Record Agreement;

- (D) the Issuer, any Programme Party and any other person include its successors in title, permitted assigns and permitted transferees; and
- (E) “**include**” or “**including**” and other derivatives thereof shall be construed to be followed by "without limitation" whether or not they are followed by such phrase or words of like import.

1.3 **Application**

This Broker Dealer of Record Agreement shall apply separately to each relevant Series of ETP Securities and the terms herein shall be construed accordingly.

1.4 **Headings**

Headings shall be ignored in construing this Broker Dealer of Record Agreement.

1.5 **Contracts**

References in this Broker Dealer of Record Agreement to this Broker Dealer of Record Agreement or to any other document are to this Broker Dealer of Record Agreement or such other document as amended, supplemented or replaced from time to time and include any document that amends, supplements or replaces them.

1.6 **Variations**

All references in this Broker Dealer of Record Agreement to an agreement, instrument or other document shall be construed as a reference to that agreement, instrument or document as the same may be amended, modified, varied or supplemented from time to time in accordance with its terms.

2 APPOINTMENT

- 2.1 With the exception of Series of ETP Securities to which the First Portfolio Administration Agreement applies, the Broker Dealer of Record is hereby appointed for each Series of ETP Securities with effect from the Series Issue Date of such Series, to act as Broker Dealer of Record upon the terms set out herein and to perform the services described herein until termination of this Broker Dealer of Record Agreement as provided for in Clause 6.

3 DUTIES OF THE BROKER DEALER OF RECORD

- 3.1 The Broker Dealer of Record shall:

- i. assist the Issuer with the establishment of all Margin Accounts;
- ii. assist the Issuer with the creation of user access across all Margin Accounts, including access of the Portfolio Administrator to the Margin Accounts;
- iii. provide general customer service support as the Broker Dealer on Record; and

- iv. undertake and perform the duties of the Broker Dealer of Record set out in the Operating Procedures Agreement.
- 3.2 The Issuer hereby gives notice and the Broker Dealer of Record hereby acknowledges that it has notice of the security, in favour of the Trustee, created over the Collateral Assets and other security interests created by or pursuant to the Security Documents.
- 3.3 The Broker Dealer of Record shall perform such duties as are herein set forth together with such additional duties (if any) as may be set forth in the Conditions and such other duties as are reasonably incidental hereto or thereto, provided that no amendment may be made to the obligations of the Broker Dealer of Record pursuant to this Broker Dealer of Record Agreement without its prior written consent.
- 3.4 Neither the Broker Dealer of Record nor any of its Affiliates, directors, officers, employees, shareholders and agents shall be liable (whether directly or indirectly, in contract, on tort or otherwise) to the Issuer, any ETP Securityholder, any other Programme Party or any other person for any liability, damages, cost, loss or expense (including legal fees, costs and expenses) (a "**Loss**") incurred by any such person that arises out of or in connection with the performance or non-performance by the Broker Dealer of Record of its obligations under this Broker Dealer of Record Agreement, provided that nothing shall relieve the Broker Dealer of Record from liability for any Loss arising by reason of acts or omissions constituting bad faith, fraud, wilful default or gross negligence of the Broker Dealer of Record or that of its officers or employees. For the purposes of this Agreement, gross negligence shall refer to any conscious, voluntary act or omission of a party in reckless disregard of the rights or consequences to others.
- 3.5 In respect of each Series of ETP Securities the aggregate liability of the LS Group Entities (which includes the Broker Dealer of Record), for any Loss, Liability or otherwise under or in connection the Transaction Documents shall not exceed EUR 500,000 and this limit shall apply:
 - (i) regardless of the capacities in which the LS Group Entities are acting in relation to the Series;
 - (ii) regardless of the Transaction Document under which any liability arises;
 - (iii) whether the claim for liability is made in negligence, breach of contract, duty or otherwise;
 - (iv) whether any liability is sought to be established pursuant to a single claim or multiple claims; and
 - (v) whether the liability is sought to be established against a single LS Group Entity or jointly against more than one LS Group Entity.

For the purposes of calculating whether the above limit has been reached, all claims in respect of which liability has been established against an LS Group Entity in connection with the Series shall be aggregated regardless of whether the claims were made by different persons.

4 INDEMNITY

- 4.1 Subject to Clause 9, the Issuer will indemnify the Broker Dealer of Record against any loss, liability, cost, claim, action, demand or expense (including, but not limited to, all reasonable costs, charges and expenses paid or incurred in disputing or defending any of the foregoing) which it may incur or which may be made against it arising out of or in relation to or in connection with its appointment or the exercise of its functions hereunder, except:
- 4.1.1 such as may result from its own wilful default, fraud, gross negligence or bad faith or that of its officers or employees; and
- 4.1.2 in respect of any amounts payable by the Broker Dealer of Record pursuant to the indemnity in Clause 4.3.
- 4.2 The Broker Dealer of Record shall indemnify the Issuer against any loss, liability, cost, claim, action, demand or expense (including, but not limited to, all reasonable costs, charges and expenses paid or incurred in disputing or defending any of the foregoing) which the Issuer may incur or which may be made against it as a result of the Broker Dealer of Record's wilful default, gross negligence, bad faith or that of their officers or employees.
- 4.3 In circumstances where (i) any claim is made against the Issuer by the Margin Loan Provider in respect of any Series which the Second Margin Account Agreement applies to (the "**Relevant Series**"); (ii) such claim exceeds the realisation value of the Secured Property of such Relevant Series available to meet any such claim (the "**Excess Amount**"); and (iii) the Margin Loan Provider seeks to recover such Excess Amount from the Issuer; the Broker Dealer of Record shall indemnify the Issuer against such Excess Amount. Furthermore, for as long as this Agreement is in effect, the Broker Dealer of Record undertakes to maintain a minimum capital equal to the value of 5% of the Collateral Assets of the Largest Series. The Largest Series shall mean any Relevant Series, the Collateral Assets of which has the highest value of all Relevant Series in issue at any time. For the avoidance of doubt, the indemnity in favour of the Issuer set out in this Clause 4.3 is separate and in addition to any liability of the Broker Dealer of Record pursuant to Clause 3.5 of this Broker Dealer of Record Agreement.

5 GENERAL

- 5.1 The Issuer shall perform such acts as the Broker Dealer of Record shall reasonably require for the performance of the Broker Dealer of Record's functions under this Broker Dealer of Record Agreement.
- 5.2 The Issuer acknowledges that:
- (i) it is not relying on the Broker Dealer of Record for any investment advice with respect to any of the Reference Assets. The Broker Dealer of Record makes no representations as to the value or validity of any of the Reference Assets and is not responsible for the enforcement of the Issuer's obligations under, or for the taking of any action to protect the Issuer's interests in, any of the Reference Assets; and
 - (ii) the Broker Dealer of Record is not under any obligation to supervise the investment represented by any of the Reference Assets or to make any recommendation to the Issuer with respect to the disposition of any of the Reference Assets.

- 5.3 In acting in accordance with this Broker Dealer of Record Agreement, the Broker Dealer of Record is acting solely as agent of the Issuer and does not assume any obligation to or relationship of agency or trust for or with any of the ETP Securityholders.
- 5.4 The Broker Dealer of Record may consult on any legal matter in relation to the ETP Securities with any legal adviser selected by it, who may be an employee of or legal adviser to the Issuer.
- 5.5 The Broker Dealer of Record shall be protected and shall incur no liability for or in respect of any action taken or thing suffered by it in relation to the ETP Securities in reliance upon any notice, direction, consent, certificate, affidavit, statement, telex or other paper or document reasonably believed by it to be genuine and to have been passed or signed by the proper parties.
- 5.6 The Broker Dealer of Record and its officers, directors, employees and affiliates may acquire, hold or dispose of any ETP Security or other security (or other interest therein) of the Issuer or any other person, may enter into or be interested in any contract or transaction with any such person, may act on, or as depository, trustee or agent for, any committee or body of holders of securities of any such person, in each case with the same rights as it would have had if that Broker Dealer of Record were not a Broker Dealer of Record under this Broker Dealer of Record Agreement and need not account for any profit.
- 5.7 The Broker Dealer of Record will forthwith deliver to the Issuer a copy of any notice or other document delivered to it by any ETP Securityholder in its capacity as Broker Dealer of Record hereunder.
- 5.8 The Broker Dealer of Record shall have no duty or responsibility in case of any default by the Issuer in the performance of its obligations under the Conditions.

6 CHANGES IN BROKER DEALER OF RECORD

- 6.1 The Broker Dealer of Record may at any time resign its appointment, subject to the Broker Dealer of Record giving to the Issuer not less than 30 days' prior written notice (or such lesser period of notice as the Issuer may agree) to that effect and the Issuer may at any time terminate the appointment of the Broker Dealer of Record, subject to the Issuer giving to such Broker Dealer of Record not less than 30 days' prior written notice to that effect (or such lesser period of notice as the Broker Dealer of Record may agree).
- 6.2 The appointment of the Broker Dealer of Record hereunder shall forthwith terminate if at any time such Broker Dealer of Record becomes incapable of acting, or is adjudged bankrupt or insolvent, or files a voluntary petition in bankruptcy or makes an assignment for the benefit of its creditors or consents to the appointment of a liquidator or receiver of all or any substantial part of its property or admits in writing its inability to pay or meet its debts as they mature or suspends payment thereof, or if a resolution is passed or an order made for the winding up or dissolution of such Broker Dealer of Record, or a liquidator, administrator, examiner or receiver of such Broker Dealer of Record or of all or any substantial part of its property is appointed, or if any order of any court is entered approving any petition filed by or against it under the provisions of any applicable bankruptcy or insolvency law, or if any public officer takes charge or

control of such Broker Dealer of Record or its property or affairs for the purpose of rehabilitation, conservation or liquidation.

6.3 Any corporation into which the Broker Dealer of Record may be merged or converted or any corporation with which such Broker Dealer of Record may be consolidated or any corporation resulting from any merger, conversion or consolidation to which such Broker Dealer of Record shall be a party shall, to the extent permitted by applicable law and provided that:

- (i) it shall be qualified to act; and
- (ii) no additional cost shall arise to the Issuer from such merger,

be the successor to such Broker Dealer of Record in relation to the ETP Securities without the execution or delivery of any paper or any further act on the part of the parties to this Broker Dealer of Record Agreement. Notices of any such merger, conversion or consolidation shall forthwith be given to the Issuer.

7 COMMISSIONS AND FEES

The Issuer and the Broker Dealer of Record acknowledge that the Broker Dealer of Record may receive [REDACTED]

8 NOTICES AND COMMUNICATIONS

All communications hereunder shall be delivered in person, by post, electronic mail or communicated by telephone (followed in the case of communication by telephone by confirmation within 24 hours by letter delivered in person or electronic email) to the relevant party at such address, electronic mail address or telephone number or person to whom communications are to be addressed as set out in the signature pages of this Broker Dealer of Record Agreement or, in any case, to such other address, electronic mail address or telephone number or person to whom communications are to be addressed as any party may notify to the others in accordance with the terms hereof from time to time.

9 LIMITED RECOURSE AND NON-PETITION

9.1 The Broker Dealer of Record acknowledges and agrees that, in respect of any claim against the Issuer in connection with any relevant Series of ETP Securities or otherwise (whether arising under the relevant Security Document, the general law or otherwise), it shall only have recourse in the case of any claim whether secured or unsecured to the Secured Property in respect of the relevant Series of ETP Securities, subject always to the Security constituted by the relevant Security Document and not to any other assets of the Issuer. Any unsecured claim by a party to this Broker Dealer of Record Agreement and any claims against the Issuer of any other unsecured creditors of the Issuer who have agreed to limit their recourse in respect of such claim to such Secured Property (*mutatis mutandis*) as this Clause 9 shall be reduced pro rata so that the total value of all unsecured claims against the Issuer in respect of the relevant Series of ETP Securities shall not exceed the aggregate value of such Secured Property after meeting claims secured thereon and the claims of any other creditors of the Issuer who have not agreed to limit their recourse to the specified assets of the Issuer. If, following realisation in full of the Secured Property (whether by way of liquidation or enforcement) and application of available cash sums as provided in Condition 6 and this Clause 9.1, any outstanding claim against the Issuer whether

secured or unsecured remains unpaid, then such outstanding claim shall be extinguished and no debt shall be owed by the Issuer in respect thereof. Following extinguishment in accordance with this Clause 9.1, neither the Broker Dealer of Record or any other person acting on its behalf shall be entitled to take any further steps against the Issuer or any of its officers, shareholders, corporate service providers or directors to recover any further sum in respect of the extinguished claim and no debt shall be owed to any such persons by the Issuer in respect of such further sum.

- 9.2 Neither the Broker Dealer of Record or any person acting on behalf of it may at any time bring, institute, or join with any other person in bringing, instituting or joining, insolvency, administration, bankruptcy, winding-up, examinership or any other similar proceedings (whether court-based or otherwise) in relation to the Issuer or any of its assets, and none of them shall have any claim arising with respect to the assets and/or property attributable to any other securities issued by the Issuer (save for any further securities which form a single class with the relevant Series of ETP Securities).

10 GOVERNING LAW AND SUBMISSION OF JURISDICTION

- 10.1 This Broker Dealer of Record Agreement or any other contractual obligations arising out of or in connection herewith shall be governed by and construed in accordance with Irish law.
- 10.2 In relation to any legal action or proceedings arising out of or in connection with this Broker Dealer of Record Agreement (“**Proceedings**”) to which it is a party, each party irrevocably submits to the jurisdiction of the courts of Ireland and waives any objection to Proceedings in such courts on the grounds of venue or on the grounds that the Proceedings have been brought in an inconvenient forum. Each such submission is made for the benefit of the other parties hereto or thereto (as the case may be) and shall not affect the right of each other party to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in any court of competent jurisdiction preclude each other party from taking Proceedings in any other court of competent jurisdiction (whether concurrently or not) unless precluded by law.
- 10.3 The Broker Dealer of Record will appoint Matheson of 70 Sir John Rogerson’s Quay, Dublin 2, Ireland as its agent to receive, for and on its behalf, service of process in any Proceedings in Ireland. Service of process on such agent shall be deemed valid service upon the Broker Dealer of Record whether or not it is forwarded to and received by the Broker Dealer of Record. The Broker Dealer of Record shall inform all other parties in writing of any change in its process agent’s address within 28 calendar days of such change. If for any reason such process agent ceases to be able to act as such or no longer has an address in Ireland, the Broker Dealer of Record irrevocably agrees to appoint a substitute process agent in Ireland reasonably acceptable to the Issuer and to deliver to the Issuer a copy of the substitute process agent’s written acceptance of that appointment, within 14 calendar days. The Broker Dealer of Record irrevocably consents to any process in any Proceedings anywhere being served by mailing a copy by registered post to it in accordance with Clause 8. However, nothing in this Clause 10.3 shall affect the right to serve process in any other manner permitted by law.

The Issuer

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Attention: Chris Spurling

By: