

# Margin Account Security Agreement

between

Leverage Shares Public Limited Company  
as Issuer

and

Apex Corporate Trustees (UK) Limited  
as Trustee relating to

a Collateralised Exchange Traded Securities Programme

**THIS SECURITY AGREEMENT** is dated the 5<sup>th</sup> day of February 2020 and made

**BETWEEN:**

- (1) **LEVERAGE SHARES PUBLIC LIMITED COMPANY**, (the “**Issuer**”), a company incorporated under the laws of Ireland under company number 597399 and having its registered office at 2<sup>nd</sup> Floor, Block 5, Irish Life Centre, Abbey Street Lower, Dublin 1, D01 P767, Ireland; and
- (2) **APEX CORPORATE TRUSTEES (UK) LIMITED**, (the “**Trustee**”), of 6th Floor, 125 Wood Street, London EC2V 7AN, United Kingdom;

**Background:**

- A. The Issuer has established a collateralised exchange traded securities (the “**ETP Securities**”) programme pursuant to which it may issue series of ETP Securities from time to time (the “**Programme**”). The Programme was originally established pursuant to the laws of England on 5 December 2017. The Programme has been amended on 5 February 2020 to change the governing law of the Programme from English law to Irish law.
- B. The Issuer has entered into a side letter dated 5 December 2017 with Interactive Brokers (UK) Limited in its capacity as portfolio administrator (the “**Portfolio Administrator**”), Interactive Brokers LLC in its capacity as custodian and margin loan provider (the “**Custodian**” and the “**Margin Loan Provider**”) and the Trustee (the “**Side Letter**”). The Side Letter amended and supplements the terms of a customer agreement dated 5 December 2017 between the Issuer, the Portfolio Administrator, the Margin Loan Provider and the Custodian (the “**Customer Agreement**”). Taken together, the Customer Agreement and the Side Letter constitute the “**Margin Account Agreement**”. The Margin Account Agreement takes effect as a separate and independent agreement in relation to each Series of ETP Securities in respect of which the Issuer, the Portfolio Administrator, the Margin Loan Provider and the Custodian enter into a confirmation of appointment in the form set out in Annex 2 to the Side Letter (the “**Relevant Series**”).
- C. Pursuant to the terms of the Margin Account Agreement, the Margin Loan Provider will provide margin loans to the Issuer for the purposes of providing leverage in respect of each Relevant Series of ETP Securities. The Margin Account Agreement is governed under the laws of England and Wales.
- D. The Issuer has agreed to enter into this Security Agreement to grant security interests in the Collateral (as defined in section 2) to the Trustee to secure the payment of the Secured Obligations.

For and in consideration of the promises, covenants and agreements herein set forth, the parties hereto agree as follows:

1. **Interpretation**

1.1 **Definitions**

Capitalised terms used in this Security Agreement but not otherwise defined shall have the meanings given to them in the Amended and Restated Master Definitions Schedule 5 February 2020 edition in respect of the Relevant Series (as amended, supplemented and /or replaced from time to time).

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 England 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 and schedules to this Agreement; and
- (D) the Issuer, any Programme Party and any other person, include its successors in title, permitted assigns and permitted transferees.

### 1.3 **Headings**

Headings shall be ignored in construing this Agreement.

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

A person who is not a party to this Security Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

### 1.5 **Application**

This Security Agreement applies separately to each Relevant Series and the terms herein shall be construed accordingly.

## 2. **Covenant to perform**

The Issuer covenants with the Trustee that it will perform the Secured Obligations (and each of them) when due and payable in accordance with the terms applicable to the same.

## 3. **Security**

The Issuer with full title guarantee and as continuing security for the performance of the Secured Obligations:

- (a) assigns absolutely to the Trustee by way of security (and to the extent not assigned, grants a continuing lien on and security interest in) all the Issuer's rights, title, interest and benefit present and future in, to and under the Margin Account Agreement to the extent that they relate to the Relevant Series;
- (b) charges by way of first-ranking charge in favour of the Trustee all of its present and future right, title and interest in and to all of the Issuer's rights as against the Margin Loan Provider and the Custodian under the Margin Account Agreement in respect of any sum or property now or in the future standing to the credit of the Margin Account and any other account of the Issuer with the Margin Loan Provider and Custodian to the extent that they relate to the Relevant Series; and
- (c) charges by first-ranking charge in favour of the Trustee all of its present and future right, title and interest in and to all of the Collateral Assets held in the Margin Account to the extent that they relate to the Relevant Series;

in each case to the extent that they relate to the Relevant Series, in favour of the Trustee for its benefit and for the benefit of the Secured Creditors in respect of the Relevant Series (the “**Collateral**”).

#### 4. **Enforcement**

The security interests created by this Security Agreement shall become enforceable upon the occurrence of an Event of Default pursuant to Condition 12 of the Conditions of the Relevant Series.

#### 5. **Powers of Enforcement**

When, and at any time after, the security interests created by this Security Agreement become enforceable in accordance with section 3 (Enforcement) of this Security Agreement, the Trustee shall be entitled, without notice, immediately:

- (a) to hold, sell or otherwise dispose of all or any of the Collateral on an arm’s length basis at any time and in a commercially reasonable manner upon such terms as the Trustee shall in its absolute discretion determine; or
- (b) to collect, recover or compromise and to give a good discharge for any moneys payable to the Issuer in respect of any of the Collateral; or
- (c) to apply or appropriate the Collateral in or towards the payment or discharge of any amounts payable by the Issuer with respect to any Secured Obligations then due in such order as the Trustee sees fit; or
- (d) secure and perfect its title to all or any part of the Collateral (including transferring the same into the name of the Trustee or its nominee(s)) or otherwise exercise in relation to the Collateral all the rights of an absolute owner; or
- (e) whether or not it has appointed a receiver, under the Law of Property Act 1925 (a “**Receiver**”), exercise all or any of the powers, authorisations and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Security Agreement) on chargees and by this Security Agreement on any Receiver or otherwise conferred by law on chargees or a Receiver.

#### 6. **Application of Proceeds**

Any monies received by the Trustee in connection with the enforcement of the security interests created by this Security Agreement, shall be held on trust by the Trustee to be applied in accordance with Clause 5.5 of the Trust Deed.

#### 7. **Representation and Warranties**

Without prejudice or limitation to any representations, warranties and covenants of the Issuer in the Trust Deed, the Issuer represents, warrants and covenants to the Trustee that:

- a. the Issuer has full power to enter into this Security Agreement and to create the security interests created by this Security Agreement;
- b. the Issuer has taken all action required to be taken, fulfilled and done (including the obtaining of any necessary consents) in order:
  - i. to authorise the entry into, performance and delivery of this Security Agreement;
  - ii. to ensure that the obligations expressed to be assumed by it in this Security Agreement are legal, valid, binding and enforceable subject, as to enforcement, to (1) the effect of bankruptcy, examinership, insolvency or similar laws affecting

generally the enforcement of creditors' rights, as such laws would apply in the event of any bankruptcy, examinership, receivership, insolvency or similar event applicable to the Issuer; and (2) general equitable principles (whether enforceability of such principles is considered in a proceeding at law or in equity);

- c. the Issuer has good, marketable and indefeasible title to the Collateral, has not made any prior sale, pledge, encumbrance, assignment or other disposition of any of the Collateral, and the Collateral is free from all encumbrances and rights of setoff of any kind except the lien in favour of the Trustee created by this Security Agreement and the Trust Deed and any lien in favour of the Margin Loan Provider pursuant to the Margin Account Agreement;
- d. except as herein provided, the Issuer will not hereafter without the Trustee's prior written consent sell, transfer or otherwise dispose of any assets that form part of the Collateral or any other part of the Collateral in respect of the Relevant Series or any right or interest therein or thereto or create or allow to exist any lien, security interest or other encumbrance over such Collateral (to the extent it relates to the Issuer) except in accordance with the Conditions of the Relevant Series and the Programme Documents;
- e. without prejudice to any specific requirements in the Trust Deed for the delivery of documents, the Issuer will promptly deliver to the Trustee all documents relating to the Collateral which the Trustee, from time to time, requires; and
- f. the Issuer shall promptly provide the Trustee with all information and other documentation which it may request in relation to the Collateral.

#### **8. Actions in respect of the Collateral**

Notwithstanding Condition 14.1, at any time before the security interests created by this Security Agreement become enforceable, the Issuer may, without the sanction of an Extraordinary Resolution and without the prior written consent of the Trustee, take action in relation to the Collateral and exercise any rights incidental to the ownership of the Collateral in accordance with Clause 5.4 of the Trust Deed.

#### **9. Additional Security**

The security interests created by this Security Agreement in favour of the Trustee shall be in addition to, and shall neither be merged into nor operate so as in any way to exclude, prejudice or affect any other security interest which the Trustee may now or at any time in the future hold or have (or would apart from the provisions of this Security Agreement hold or have) for or in respect of all or any part of the Secured Obligations, nor shall any such other security interest to which the Trustee may be otherwise entitled or the liability of any person not party to this Security Agreement for all or any part of the Secured Obligations be in any way prejudiced or affected by the security interests created by this Security Agreement.

#### **10. Further Assurance**

The Issuer shall execute and do all such assurances, acts and things as the Trustee may require for perfecting or protecting the security interests intended to be created by or pursuant to this Security Agreement and from time to time and at any time after the security interests or any part thereof created by or pursuant to this Security Agreement shall have become enforceable shall execute and give all such assurances and do all such acts and things as the Trustee may require for facilitating the realisation of or enforcement of rights in respect of, the security interests created by this Security Agreement or the relevant part thereof and the exercise of all powers, authorities and discretions vested in the Trustee.

## 11. Release

Prior to any enforcement of the security interests created by this Security Agreement, the Trustee will be deemed to release the Collateral, or a part of the Collateral, from such security interests without the need for any notice or other formalities in the circumstances detailed in Clause 5.2 of the Trust Deed. No release from the security interests created by this Security Agreement or any part of the Collateral by the Trustee shall in any way alter, vary, or diminish the force, effect or the security interests created by this Security Agreement on the balance of the Collateral.

## 12. Protection of the Trustee

The protective provisions and exculpations in relation to the Trustee as set out in the Trust Deed shall apply to the Trustee in its capacity as a party to this Security Agreement *mutatis mutandis* as if set out in full herein.

## 13. Preservation of Rights

No delay or omission on the Trustee's part to exercise any right or power hereunder will impair any such right or power, be considered a waiver of any such right or power, nor will the Trustee's action or inaction impair any such right or power. The Trustee's rights and remedies hereunder are cumulative and not exclusive of any other rights or remedies which the Trustee may have under other agreements, at law or in equity.

## 14. Unenforceable or Inapplicable Provisions

In case any one or more of the provisions contained in this Security Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

## 15. Changes in Writing

No modification, amendment or waiver of any provision of this Security Agreement nor consent to any departure by the Issuer therefrom will be effective unless made in writing signed by the Trustee, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given.

## 16. Counterparts

This Security Agreement may be signed in any number of counterpart copies and by the parties hereto on separate counterparts, but all such copies shall constitute one and the same instrument.

## 17. Successors and Assigns

This Security Agreement will be binding upon and inure to the benefit of the Issuer and the Trustee and their respective heirs, executors, administrators, successors and assigns; provided, however, that neither party may assign this Security Agreement in whole or in part without the other party's prior written consent.

## 18. Governing Law and Jurisdiction

This Security Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law. The courts of England are to have non-exclusive jurisdiction to settle any disputes that may arise out of or in connection with this Security Agreement and accordingly any legal action or proceedings arising out of or in connection with this Security Agreement ("**Proceedings**") may be brought in such courts. Each of the Issuer and any party incorporated outside England irrevocably submits to the jurisdiction of such courts and waives any objections to Proceedings in such courts whether on the ground of venue or on the ground

that the Proceedings have been brought in an inconvenient forum. These submissions are made for the benefit of each of the other parties to this Agreement and shall not limit the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude any of them

#### **19. Limited Recourse**

Each party to this Security Agreement acknowledges and agrees that, in respect of any claim against the Issuer in connection with a Relevant Series or otherwise (whether arising under the relevant Trust Deed, 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 such Relevant Series, subject always to the security created by the Security Documents in respect of the Relevant Series and not to any other assets of the Issuer. Any unsecured claim by a party to this Security 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 on the same terms (*mutatis mutandis*) as this section 18 shall be reduced *pro rata* so that the total value of all unsecured claims against the Issuer in respect of the Relevant Series shall not exceed the aggregate value of the 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 the Conditions, and 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 such extinguishment, none of the parties to this Security Agreement or any other person acting on behalf of any of them 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.

#### **20. Non-Petition**

No party to this Security Agreement or any person acting on its behalf 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 Series with the Relevant Series).

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and date first above written.

**LEVERAGE SHARES Plc:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**APEX CORPORATE TRUSTEES (UK) LIMITED**

By: \_\_\_\_\_

Title: \_\_\_\_\_