

DATED: 6 November 2020

# Amended and Restated Portfolio Administration Agreement

between

Leverage Shares Public Limited Company  
as Issuer

Apex Corporate Trustees (UK) Limited  
as Trustee

and

GWM Limited  
as Portfolio Administrator

relating to

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

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**THIS AGREEMENT** is dated 6 November 2020 and made

**BETWEEN:**

- (1) **LEVERAGE SHARES PUBLIC LIMITED COMPANY**, a public limited company incorporated under the laws of Ireland having its registered office at 2<sup>nd</sup> Floor, Block 5, Irish Life Centre, Abbey Street Lower, Dublin 1, D01 P767, Ireland (the “**Issuer**”);
- (2) **APEX CORPORATE TRUSTEES (UK) LIMITED**, of 6th Floor, 125 Wood Street, London EC2V 7AN as trustee (the “**Trustee**”, which expression shall, wherever the context so admits, include all other persons or companies for the time being the trustee or trustees under the Trust Deed) for the Secured Creditors; and
- (3) **GWM LIMITED** of 41 Cedar Avenue, 5<sup>th</sup> Floor, Hamilton, HM12, Bermuda (the “**Portfolio Administrator**”, which expression includes any successor portfolio administrator appointed hereunder).

**THE PARTIES AGREE AS FOLLOWS:**

**1. 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.
- (B) This Amended and Restated Portfolio Administration Agreement (the “**Portfolio Administration Agreement**”) sets out the terms on which GWM Limited agrees to act as Portfolio Administrator in respect of Series of ETP Securities under the Programme.
- (C) This Portfolio Administration Agreement amends and restates the Portfolio Administration Agreement dated 5 February 2020 in respect of the Programme.

**2. Interpretation**

**2.1 Capitalised Terms**

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

**2.2 References to Statutes, etc.**

All references in this Agreement to any statute or any provision of any statute shall be deemed also to refer to any statutory modification or re-enactment thereof of any statutory instrument, order or regulation made thereunder or under such modification or re-enactment.

### **2.3 References to other Documents, etc.**

All references in this Agreement to any agreement (including this Agreement) deed or other document, shall refer to such agreement, deed or other document as the same may be amended, supplemented or modified from time to time.

### **2.4 References to Clauses, Paragraphs and Schedules**

In this Agreement references to clauses, paragraphs and schedules shall, unless the context otherwise requires, be construed as references to the clauses, schedules and paragraphs of this Agreement.

### **2.5 Successor**

In this Agreement, “successor” in relation to a party hereto means an assignee or successor in title of such party or any person who, under the laws of its jurisdiction of incorporation or domicile, has assumed the rights and obligations of such party hereunder to which party the same has been transferred under such laws, as the same shall have been approved in writing by the Issuer.

## **3. Powers and Duties of the Portfolio Administrator**

### **3.1 Appointment and Authority**

#### **(A) Appointment**

The Issuer appoints the Portfolio Administrator to act as Portfolio Administrator in relation to each of the Series of ETP Securities in respect of which the Issuer and the Portfolio Administrator enter into a confirmation of appointment in the form set out in Schedule 1 hereto (each such confirmation of appointment, a “**Confirmation**”) to perform the services set out herein.

Upon entering into a Confirmation, the Portfolio Administrator shall be deemed to acknowledge and agree that the obligations purported to be imposed on the Portfolio Administrator in the Final Terms in relation to the relevant Series of ETP Securities shall apply to the Portfolio Administrator. To the extent that there is any conflict between this Agreement and the relevant Final Terms, the relevant Final Terms shall prevail.

#### **(B) Authority**

The Portfolio Administrator’s duties and authority to act as Portfolio Administrator hereunder are limited to the duties and authority specifically provided for in this Agreement and in the Final Terms in relation to the relevant Series of ETP Securities in respect of which the Portfolio Administrator and the Issuer have entered into a Confirmation. The Portfolio Administrator shall not be deemed to assume the obligations of the Issuer under the ETP Securities, the Trust Deed or any other documents or agreement to which the Issuer is a party. In addition, the Portfolio Administrator shall not be held liable for any omission or for any failure to adequately fulfil its duties or responsibilities hereunder as a result of not having been provided with the appropriate information necessary for the performance of such duties or responsibilities by any other party to a Transaction Document (excluding Affiliates of the Portfolio Administrator or the Portfolio Administrator acting in a different capacity) having requested such information in writing in reasonable time.

#### **(C) Portfolio Administrator to act for Trustee**

At any time after the Security constituted by the Security Documents has become enforceable in accordance with the Conditions of the ETP Securities, the Trustee may, by notice in writing to the Issuer and Portfolio Administrator, require the Portfolio Administrator, so far as permitted by any applicable law or by any regulation having general application until notified by the Trustee to the contrary to:

- (1) act thereafter as Portfolio Administrator on behalf of the Trustee in relation to all powers and duties of the Portfolio Administrator otherwise owing to the Issuer in respect of the Collateral Assets pursuant to this Agreement *mutatis mutandis* on the terms provided in this Agreement (save that the Trustee's liability under any provisions herein contained for the indemnification, remuneration and expenses of the Portfolio Administrator shall be limited to the amounts for the time being held by the Trustee on the terms of the Trust Deed and available for the purpose); and/or
- (2) deliver up all moneys, documents and records held by it in respect of the Collateral Assets to the Trustee or as the Trustee shall direct in such notice provided that such notice shall not apply to any document or record which the Portfolio Administrator is obliged not to release by applicable law or regulation.

### **3.2 Duties of the Portfolio Administrator**

The Issuer hereby directs and authorises the Portfolio Administrator to perform, and the Portfolio Administrator hereby agrees to perform, the following actions and duties on behalf of the Issuer in respect of each of the Series of ETP Securities in respect of which it is appointed, in each case in accordance with the Operating Procedures Agreement where appropriate.

- (a) In relation to Leveraged Exposures where the Reference Assets are Physical Assets the Portfolio Administrator shall:
  - direct that the net proceeds of the issuance of such ETP Securities are deposited in the Margin Account with the Margin Loan Provider;
  - draw down funding from the Margin Loan Provider in an amount equal to the Leveraged Investment Amount;
  - procure that such net proceeds of issuance and the Leveraged Investment Amount are invested in the Reference Assets of the Index or Investment Strategy of such Series of ETP Securities to the extent necessary to replicate the performance of the Index or to pursue the Investment Strategy for that Series taking into account the Leverage Factor,
  - procure that the Reference Assets are held with the Margin Loan Provider on behalf of the Issuer in the Margin Account; and
  - procure that any balance held in the Margin Account from time to time, to the extent not required for investment in the Reference Assets to replicate the performance of the Index or to pursue the Investment Strategy for that Series, is at the discretion of the Portfolio Administrator, maintained in cash or invested in Ancillary Assets.
- (b) In relation to Normal Exposures where the Reference Assets are Physical Assets the Portfolio Administrator shall:

- direct that the net proceeds of the issuance of such ETP Securities are deposited in the Margin Account with the Margin Loan Provider;
  - procure that such net proceeds of issuance are invested in the Reference Assets of the Index or Investment Strategy of such Series of ETP Securities to the extent necessary to replicate the performance of the Index or to pursue the Investment Strategy for that Series;
  - procure that the Reference Assets are held with the Margin Loan Provider on behalf of the Issuer in the Margin Account; and
  - procure that any balance held in the Margin Account from time to time, to the extent not required for investment in the Reference Assets to replicate the performance of the Index or to pursue the Investment Strategy for that Series, is at the discretion of the Portfolio Administrator, maintained in cash or invested in Ancillary Assets.
- (c) In relation to Short Exposures where the Reference Assets are Physical Assets, the Portfolio Administrator, on behalf of the Issuer, shall:
- direct that the net proceeds of the issuance of such ETP Securities are deposited in the Margin Account with the Margin Loan Provider;
  - borrow the relevant Reference Assets from the Margin Loan Provider and effect short sales of such Reference Assets in order to replicate (to the degree practicable) the return on the Index referenced by such Series or to pursue the Investment Strategy of such Series taking into account the applicable Leverage Factor; and
  - procure that any balance held in the Margin Account from time to time, to the extent not required for investment in the Reference Assets to replicate the performance of the Index or to pursue the Investment Strategy for that Series, is at the discretion of the Portfolio Administrator, maintained in cash or invested in Ancillary Assets.
- (d) In relation to ETP Securities where the Reference Assets are futures contracts, the Portfolio Administrator, on behalf of the Issuer, shall:
- direct that the net proceeds of the issuance of such ETP Securities are deposited in the Margin Account with the Margin Loan Provider;
  - open positions in the Reference Assets in order to replicate (to the degree practicable) the return of the Index referenced by such Series or to pursue the Investment Strategy of such Series taking into account the applicable Leverage Factor;
  - manage the use of the balance in the Margin Account to fund margin payments to maintain the positions in the Reference Assets; and
  - procure that any balance held in the Margin Account from time to time, to the extent not required for investment in the Reference Assets to replicate the performance of the Index or to pursue the Investment Strategy for that Series, is at the discretion of the Portfolio Administrator, maintained in cash or invested in Ancillary Assets.

- (e) Where applicable, at the end of each Rebalance Period, the Portfolio Administrator shall rebalance each Margin Account in order to track the performance of the relevant Index or to ensure leverage levels are in line with the relevant Investment Strategy. This will be achieved (i) where the Reference Assets are Physical Assets, by the purchase of additional Reference Assets using cash standing to the credit of the relevant Margin Account and/or funding drawn down from Margin Loan Provider and adding such purchased Reference Assets to the relevant Margin Account or the sale of the existing Reference Assets of such Index or Investment Strategy and placing the cash proceeds of such sale in the relevant Margin Account; and (ii) where the Reference Assets are futures contracts, by rolling them forward before their expiry.
- (f) During Rebalance Periods (where applicable), to ensure that the Margin Account continues to track the Index or pursue the Investment Strategy, as applicable, the Portfolio Administrator shall monitor the level of the applicable Index or Investment Strategy and perform an Unscheduled Rebalance in the event of (i) a significant decline in the price of the Reference Assets of the Index or Investment Strategy if such Series provides for a Leveraged Exposure to such Reference Assets; and (ii) a significant increase in the price of the relevant Reference Assets if the Index or Investment Strategy for such Series provides a Short Exposure to the Reference Assets.
- (g) Where the Portfolio Administrator has been appointed in respect of a Series of ETP Securities which pursues an actively managed Investment Strategy, the Portfolio Administrator shall manage the Collateral Assets of such Series in accordance with the Investment Strategy of such Series and shall use reasonable care in the performance of its services and duties under this Agreement and do so:
  - (i) in a manner consistent with practices and procedures (the “customary procedures”) followed by reputable and prudent institutional portfolio managers of international standing managing investments or advising in respect of assets and liabilities similar in nature and character to the Collateral Assets; or
  - (ii) in a manner consistent with relevant internal practices and procedures of the Portfolio Administrator in force at such time if these are more rigorous than the customary procedures.
- (h) On a quarterly basis, the Portfolio Administrator shall provide a summary report detailing the Tracking Error of each Index-linked Series of ETP Securities relative to its corresponding Index.
- (i) Exercise any rights (e.g. subscription rights, consent requests, proxy votes) in connection with the Collateral Assets in respect of each relevant Series of ETP Securities, as directed by the Arranger.
- (j) Prior to the first Issue Date, the Portfolio Administrator shall prepare and execute on behalf of the Issuer a United States tax Form W-8BEN claiming a reduction in the rate of United States dividend withholding tax from 30% to 15% under the Ireland United States double tax treaty. The Portfolio Administrator shall provide such completed Form W-8BEN to the Margin Loan Provider with a copy to the Issuer.
- (k) In the event that any other person is appointed to act as margin loan provider for the Issuer in respect of the Programme or any Series thereunder in addition to or in place of the Margin Loan Provider, the Portfolio Administrator shall similarly prepare and execute on behalf of the Issuer a United States tax form W-8BEN claiming a reduction in the rate of United States dividend withholding tax from 30% to 15% under the

Ireland United States double tax treaty, and provide a copy of such Form W-8BEN to such other person.

- (l) In the event that the Collateral Assets for any Series consist of or include shares in any company incorporated in any jurisdiction other than the United States, the Portfolio Administrator and the Issuer shall cooperate with the Margin Loan Provider, using reasonable efforts, to take any action or steps to complete any procedural formalities necessary or desirable to enable the Issuer to receive dividends on such Collateral Assets free of dividend withholding tax or subject to a reduced rate of dividend withholding tax.

#### **4. Limits on Responsibility of the Portfolio Administrator**

##### **4.1 No Responsibility**

The Portfolio Administrator will have no responsibility under this Agreement other than to render the services to the Issuer (and, for the purposes of Clause 3.1(C) (*Portfolio Administrator to Act for the Trustee*) to the Trustee) called for hereunder in good faith, in a commercially reasonable manner, in compliance with this Agreement and without fraud, wilful misconduct or gross negligence hereunder. The Portfolio Administrator shall incur no liability to anyone in acting upon any signature, instrument, statement, notice, resolution, request, direction, consent, order, certificate, report, opinion, bond or other document or paper reasonably believed by it to be genuine and reasonably believed by it to be properly executed or signed by the proper party or parties. The Portfolio Administrator may exercise any of its rights or powers hereunder or perform any of its duties hereunder either directly or by or through agents or attorneys, but the Portfolio Administrator shall remain responsible for any actions or conduct or breach by any agent or attorney or delegate appointed hereunder by it. Neither the Portfolio Administrator nor any of its Affiliates, directors, officers, employees, shareholders and agents will be liable to the Issuer or other parties hereto, except by reason of acts or omissions constituting wilful misconduct or gross negligence, fraud, bad faith.

In respect of each Series of ETP Securities the aggregate liability of the LS Group Entities (which includes the Portfolio Administrator), 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.



## **4.2 Force Majeure**

A failure by the Portfolio Administrator to perform any of its obligations under this Agreement as a direct consequence of a Force Majeure Event shall not constitute a breach of this Agreement by the Portfolio Administrator.

For the purposes of this Clause, a Force Majeure Event shall correspond to the occurrence of a natural or man-made disaster, an act of God, an armed conflict, an act of terrorism, or any similar intervening circumstance that is beyond the reasonable control of the Portfolio Administrator and that prevents it, after using all reasonable efforts, to overcome such prevention.

## **4.3 Reimbursement of Expenses**

The Issuer will reimburse, indemnify and hold harmless the Portfolio Administrator, and its Affiliates, directors, officers, employees, shareholders or agents with respect to all reasonable expenses and losses, damages, liabilities, demands, charges and claims of any nature (including the fees and expenses of legal counsel and other experts which are properly incurred) in respect of or arising from any acts or omissions performed or omitted by the Portfolio Administrator, its Affiliates, directors, officers, employees, shareholders or agents in good faith and without fraud, wilful misconduct or gross negligence hereunder.

## **4.4 Indemnity**

The Portfolio Administrator shall indemnify the Issuer for, and hold it harmless against, any loss, liability or expense properly incurred as a result of the breach of the terms of this Agreement by fraud, gross negligence, wilful misconduct or bad faith of the Portfolio Administrator except such as may result from the Issuer's fraud, gross negligence, wilful misconduct or bad faith or that of its directors, officers, employees or agents. The Portfolio Administrator shall not be liable to indemnify any person for any settlement of any such claim, action or demand effected without the Portfolio Administrator's prior written consent (such consent not to be unreasonably withheld).

## **4.5 Punitive Damages**

Notwithstanding any provision of this Agreement to the contrary, including, without limitation, any indemnity given by the Issuer or the Portfolio Administrator herein, each of them shall not in any event be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), whether or not foreseeable, even if the Issuer or the Portfolio Administrator have been advised of the likelihood of such loss or damage and regardless of whether the claim for loss or damage is made in negligence, for breach of contract or otherwise; provided, however, that this Clause 4.5 (*Punitive Damages*) shall not be deemed to apply in the event of a determination of fraud on the part of the Issuer or the Portfolio Administrator in a non-appealable judgment by a court having jurisdiction.

## **4.6 Survival**

The indemnities in this Clause 4 (*Limits on responsibility of Portfolio Administrator*) shall survive notwithstanding termination of the appointment of the Portfolio Administrator or termination of this Agreement.

## 5. Portfolio Administrator Representations and Warranties

The Portfolio Administrator represents and warrants to the other parties that:

(A) **Status**

It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing.

(B) **Powers**

It has the power and authority to execute this Agreement and any other Transaction Documents to which it is a party, to deliver this Agreement and any other Transaction Documents to which it is a party and any other documentation relating to hereto and thereto that it is required by any of such agreements to deliver and to perform its obligations under this Agreement and any other Transaction Documents to which it is a party and has taken all necessary action to authorise such execution, delivery and performance; and this Agreement has been, and each other such document will be, duly executed and delivered by it.

(C) **No Violation or Conflict**

Such execution, delivery and performance do not violate or breach any law applicable to it, any provision of its governing instruments, any order or judgment of any court or other agency of government applicable to it or any of its assets or any agreement, instrument or undertaking binding on or affecting it or any of its assets.

(D) **Consents**

It has provided all notifications and obtained all governmental and other consents and licences that are required to have been obtained by it with respect to this Agreement and any other Transaction Documents to which it is a party which consents are in full force and effect and it is in compliance with all conditions of any such consents.

(E) **Obligations Binding**

This Agreement and any other Transaction Documents to which it is a party constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(F) **Absence of Litigation**

There is not pending or, to its knowledge, threatened against it or against any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement and any other Transaction Documents to which it is a party or its ability to perform its obligations under this Agreement and any other Transaction Documents to which it is a party.

(G) **Base Prospectus**

As of the date of the Base Prospectus and as of the Issue Date the section entitled "The Portfolio Administrator" and any information concerning the Portfolio

Administrator contained in the Base Prospectus, is true in all material respects and does not omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

## **6. Acknowledgment of Security**

The Portfolio Administrator acknowledges that the Issuer will assign or charge the benefit of this Agreement to the Trustee as security for the Secured Obligations and the Portfolio Administrator confirms that, until such time as the Trustee notifies the Portfolio Administrator in writing that particular Secured Property of the relevant Series of ETP Securities is no longer subject to such assignment or charge, the Portfolio Administrator will hold such Secured Property to the order of, or where the Security constituted by the Security Documents has become enforceable in accordance with the Conditions of the ETP Securities, for the benefit of, the Trustee. The Portfolio Administrator further acknowledges that the rights of the Issuer and the Portfolio Administrator in respect of the Secured Property are subject to the charges and assignments in favour of the Trustee created by or pursuant to the Trust Deed and the Security Documents in relation to such Series of ETP Securities.

## **7. General**

### **7.1 No Agency or Trust**

The Portfolio Administrator shall not have any obligation towards or relationship of agency or trust with any ETP Securityholder and shall be responsible only for the performance of the duties and obligations expressly imposed upon it under this Agreement and in the Conditions of the ETP Securities. The Portfolio Administrator shall not be under any obligation to take any action hereunder which may tend to involve it in any expense or liability, the payment of which within a reasonable time is not, in its reasonable opinion, assured to it.

### **7.2 Consultation**

The Portfolio Administrator may consult as to legal matters with legal advisers satisfactory to it and the written opinion of such legal advisers shall be full and complete authorisation and protection in respect of any action taken or omitted to be taken by the Portfolio Administrator hereunder in good faith and in accordance with the opinion of such legal advisers provided it exercised due care in the appointment of such legal advisers.

### **7.3 Reliance on Documents**

The Portfolio Administrator shall be protected and shall incur no liability for or in respect of any action taken or omitted to be taken or anything suffered by it in reliance upon any ETP Security, notice, direction, consent, certificate, affidavit, statement or other paper or document reasonably believed by it to be genuine and to have been presented or signed by the proper parties.

### **7.4 Other Relationships**

Subject to compliance with applicable laws including any applicable selling restrictions, the Portfolio Administrator and its Affiliates, directors, officers and employees may become the owners of, or acquire any interest in, any ETP Security, with the same rights as any other owner or holder, and, subject to compliance with any regulatory laws, may engage or be interested in any business transaction with the Issuer without being liable to account to the

ETP Securityholders for any resulting profit, and may act on, or as depositary, trustee or agent for, any committee or body of holders of ETP Securities or other obligations of the Issuer as freely as if it was not a party, or connected with a party, to this Agreement.

#### **7.5 No Lien**

The Portfolio Administrator shall not exercise any lien, right of set-off or similar claim against any ETP Securityholder over the ETP Securities or over any amount held by it pursuant to the terms hereof.

#### **7.6 Change of Office**

If the Portfolio Administrator shall change its specified office, it shall give to the Issuer and the Trustee not less than 30 days' prior written notice to that effect giving the address of the changed specified office.

### **8. Replacement of the Portfolio Administrator**

8.1 Where this Agreement has been or is to be terminated pursuant to Clause 9, the Issuer shall use reasonable endeavours to procure that a reputable portfolio administrator enters into an agreement with the Issuer and the Trustee to replace the Portfolio Administrator as provider of the services under this Agreement (the "**Replacement Portfolio Administrator**").

8.2 At any time prior to the occurrence of a Margin Loan Provider Event of Default, a Margin Account Termination Event or an Event of Default under the ETP Securities, the Portfolio Administrator may novate, assign or otherwise transfer its obligations as Portfolio Administrator under this Agreement to a Replacement Portfolio Administrator provided that:

- (A) the Portfolio Administrator and the Replacement Portfolio Administrator enter into arrangements satisfactory to the Issuer in accordance with this Agreement and any other arrangements required by the Issuer (including, without limitation, the provision of such legal opinion as the Issuer may require);
- (B) following such transfer the Portfolio Administration Agreement with the Replacement Portfolio Administrator is subject to the Security on the same terms mutatis mutandis as the Portfolio Administration Agreement with the Portfolio Administrator prior to such transfer and shall form part of the Secured Property;
- (C) not less than 10 calendar days' prior notice of any such transfer is given to ETP Securityholders in accordance with Condition 17; and
- (D) the Replacement Portfolio Administrator is deemed, on the date of the novation, assignment or transfer, to assume all the obligations of the Portfolio Administrator to the Issuer and the Trustee under this Agreement, and to give to the Issuer and the Trustee all the representations, warranties and undertakings given by the Portfolio Administrator under this Agreement.

### **9. Resignation and Removal; Termination**

#### **9.1 Resignation with Notice Period**

Each of the Issuer, the Trustee and the Portfolio Administrator, may at any time and with or without reason resign its appointment under this Agreement by giving not less than ninety (90) calendar days' written notice to the other parties hereto.

## 9.2 Resignation by Portfolio Administrator without Notice Period

At any time on or after the occurrence of a PA Resignation Event, the Portfolio Administrator may resign its appointment under this Agreement by delivery of a notice to such effect to the Issuer, copied to the Trustee. Such notice shall also specify the relevant PA Resignation Event. Such resignation shall be effective on the date on which such notice is received by the Issuer in accordance with Clause 13 (*Parties' Notice Details*). As used in this Agreement, "**PA Resignation Event**" shall mean:

- 9.2.1 if the Portfolio Administrator determines in good faith (acting upon a legal opinion delivered by an internationally recognised law firm obtained at the Portfolio Administrator's expense, a copy of which it shall provide to the Issuer) that due to a change in applicable law or regulation, the performance by the Portfolio Administrator of its duties under this Agreement would be a violation of such law or regulation; and
- 9.2.2 the Portfolio Administrator receives a direction from or is required by any competent regulatory authority having authority over it to resign immediately;

## 9.3 Termination by Issuer without Notice Period

At any time on or after the occurrence of a PA Termination Event, the Issuer may terminate the appointment of the Portfolio Administrator under this Agreement by delivery of a notice to such effect and which shall also specify the relevant PA Termination Event to the Portfolio Administrator, copied to the Trustee, subject to any limitations set out in the Conditions. Such termination shall be effective on the date on which such notice is received by the Portfolio Administrator in accordance with Clause 13 (*Parties' Notice Details*).

## 9.4 PA Termination Event

As used in this Agreement, "**PA Termination Event**" shall mean:

- 9.4.1 the Portfolio Administrator wilfully fails to comply with or perform any agreement to be complied with or performed by it under this Agreement where such failure to comply or perform has a material adverse effect on the rights or interests of the Issuer or the ETP Securityholders, or could reasonably be expected to have such an effect and has not been remedied to the satisfaction of the Issuer;
- 9.4.2 the Portfolio Administrator fails to comply with or perform any agreement to be complied with or performed by it under this Agreement and fails to cure such breach within thirty (30) calendar days of its becoming aware of, or its receiving notice from the Issuer;
- 9.4.3 a representation made or repeated or deemed to have been made or repeated by the Portfolio Administrator in this Agreement proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated, where such representation being incorrect or misleading has a material adverse effect on the Issuer; and the Portfolio Administrator fails to cause such representation to be correct or not misleading within thirty (30) calendar days of its becoming aware of, or its receiving notice from the Issuer;
- 9.4.4 the Portfolio Administrator:
  - (A) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
  - (B) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;

- (C) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (D) institutes or has instituted against it proceedings seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceedings or petition instituted or presented against it, such proceedings or petition:
  - (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
  - (ii) is not dismissed, discharged, stayed or restrained in each case within thirty (30) calendar days of the institution or presentation thereof;
- (E) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (F) seeks or becomes subject to the appointment of an administrator, provisional liquidator, examiner, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets;
- (G) has a secured party take possession of all or substantially all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets and such secured party has not ceased such possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty (30) calendar days thereafter;
- (H) 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 sub-clauses 0(A) to 0(G) (inclusive);

#### 9.4.5 the Portfolio Administrator:

- (A) consolidates or amalgamates with another entity;
- (B) merges with or into another entity;
- (C) transfers all or substantially all of its assets, undertaking and business to another entity; or
- (D) transfers all or substantially all of its assets, undertaking and business pertaining to asset management or investment advisory services to another entity;

and at the time of such consolidation, amalgamation, merger or transfer the resulting, surviving or transferee entity fails to assume all of the obligations of the Portfolio Administrator under this Agreement or any documentation relating to this Agreement to which it or its predecessor was a party, whether such assumption is by operation of law or otherwise;

## 10. **Commissions and Expenses**

### 10.1 Fees

The Issuer shall, in respect of the services to be performed by the Portfolio Administrator under this Agreement, pay, in accordance with the order of priority specified in the Conditions of the ETP Securities, to the Portfolio Administrator, the fees separately agreed in a fee letter between the Issuer and the Portfolio Administrator (together with any applicable VAT thereon against production of a valid VAT invoice).

## **10.2 Expenses**

The Issuer shall also pay (against presentation of the relevant invoices), in accordance with the order of priority specified in the Conditions of the ETP Securities, all reasonable out-of-pocket expenses (including, by way of example only, legal, advertising, cable and postage expenses and insurance costs) properly incurred by the Portfolio Administrator in connection with their services hereunder, together with any applicable VAT to the extent that such VAT is not available for credit or repayment or otherwise recoverable by the Portfolio Administrator or for any person with which the relevant Portfolio Administrator is treated as a member of a group for VAT purposes.

## **10.3 Stamp Duty**

The Issuer agrees to pay any and all stamp and other documentary taxes or duties which may be payable by the Portfolio Administrator in connection with the execution, delivery and enforcement of this Agreement.

## **10.4 Acceleration of Payment**

Notwithstanding any other provision of this Agreement, in the event of any enforcement of the security over the Collateral Assets pursuant to the Trust Deed all fees and expenses payable to the Portfolio Administrator and the Trustee shall become immediately due and payable.

## **11. Limited Recourse**

11.1 In respect of any claim against the Issuer in relation to a Series of ETP Securities and/or this Agreement, the Portfolio Administrator and the Trustee shall each have recourse only to the Secured Property in respect of such Series of ETP Securities in respect of which such claim relates, subject always to the Security, and not to any other 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 of the relevant Series of ETP Securities, 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 the extinguishment of any such claim, neither the Portfolio Administrator or the Trustee 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.

11.2 Neither the Portfolio Administrator or the Trustee or any person acting on behalf of any of them 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 sums, 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 of ETP Securities).

11.3 The provisions of this Clause 11 shall survive notwithstanding any redemption of the ETP Securities or the termination or expiration of this Agreement and any other Programme Document.

**12. Counterparts**

This Agreement and any agreement supplemental hereto may be executed and delivered in any number of counterparts, all of which, taken together, shall constitute one and the same agreement and any party to this Agreement or any agreement supplemental hereto may enter into the same by executing and delivering a counterpart.

**13. Parties' Notice Details**

Any notice or demand to be given, made or served for any purposes under this Agreement shall be given, made or served by sending the same by pre-paid post, e-mail or by delivering it by hand as follows:

To the Issuer:

Leverage Shares Public Limited Company

Address: 2<sup>nd</sup> Floor, Block 5  
Irish Life Centre  
Abbey Street Lower  
Dublin 1  
D01 P767  
Ireland

Attention: The Directors

Email: leverageshares@apexfs.com

To the Trustee:

Apex Corporate Trustees (UK) Limited

Address: acting through its principal address at:  
6<sup>th</sup> Floor, 125 Wood Street  
London EC2V 7AN

Attention: The Manager, Corporate Trusts

E-mail: corporatetrusts@apexfs.com

To the Portfolio Administrator

GWM Limited

Address: 41 Cedar Avenue  
5<sup>th</sup> Floor  
Hamilton, HM12  
Bermuda

Attention: Chris Spurling

Email: cspurling@gwmltd.com



or to such other address as shall have been notified (in accordance with this Clause 13 (*Parties' Notice Details*)) to the other parties hereto and any notice or demand sent by post as aforesaid shall be deemed to have been given, made or served three days in the case of inland post or seven days in the case of overseas post after despatch and any notice or demand sent by email transmission as aforesaid shall be deemed to have been given, made or served 24 hours after the time of despatch; provided that in the case of a notice or demand given by email transmission, such notice or demand shall forthwith be confirmed by post. The failure of the addressee to receive such confirmation shall not invalidate the relevant notice or demand given by email transmission.

#### **14. Provisions Severable and Partial Invalidity**

If, at any time, any provision hereof is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of the remaining provisions or the effectiveness of any of the remaining provisions under such law, or the legality, validity or enforceability of such provision under the laws of any other jurisdiction.

#### **15. Governing Law and Jurisdiction**

##### **15.1 Governing Law**

This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of Ireland.

##### **15.2 Jurisdiction**

Each party irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

##### **15.3 Agent for Service of Process**

The Portfolio Administrator hereby irrevocably appoints Matheson of 70 Sir John Rogerson's Quay, Dublin 2, Ireland to receive service of process on its behalf as its authorised agent for service of process in Ireland but for no other purpose. If for any reason such agents shall cease to be such agent for service of process, the Portfolio Administrator shall forthwith appoint a new agent for service of process in Ireland and deliver to the other parties to this Portfolio Administration Agreement a copy of the new agent's acceptance of appointment within 30 days. Failing such appointment within 30 days, the Trustee shall be entitled to appoint a new agent for service of process by written notice addressed to the relevant party or delivered to the relevant party. Nothing in this Agreement shall affect the right to serve process in any other manner permitted by law. This Clause applies to proceedings in Ireland and to proceedings elsewhere.

#### **16. Trustee Protections**

The Trustee has agreed to become a party to this Agreement for the better preservation and enforcement of its rights hereunder and shall not assume any liabilities or obligations under this Agreement unless such obligation or liability is expressly assumed by the Trustee in this

Agreement and any such expressly assumed obligations are solely of a mechanical and administrative nature.

In performing any act under this Agreement, it is agreed and acknowledged that the Trustee shall have the protections, immunities, rights, powers, authorisations, indemnities and benefits conferred on it under and by the relevant Security Documents.

This Agreement shall be construed in accordance with, and subject to, the provisions of the relevant Security Documents such that all rights, remedies, privileges, discretions granted to, or exercisable by, the Trustee in respect of, or in connection with this Agreement, shall be exercisable by the Trustee as if such provisions were set out in full herein and this Agreement shall be construed accordingly.

**IN WITNESS** of which this Agreement has been executed on the date written at the beginning hereof.

## **SCHEDULE 1**

### **CONFIRMATION OF APPOINTMENT OF PORTFOLIO ADMINISTRATOR**

*[On letterhead of the Issuer]*

To: GWM Limited  
41 Cedar Avenue  
5<sup>th</sup> Floor  
Hamilton, HM 12  
Bermuda  
(the “**Portfolio Administrator**”)

Dear Sirs

**Leverage Shares Public Limited Company’s programme for the issuance of collateralised exchange traded securities (the “Programme”)**

We refer to the Portfolio Administration Agreement dated [ ] in respect of the Programme (the “**Portfolio Administration Agreement**”) between ourselves as the Issuer and GWM Limited as the Portfolio Administrator.

Terms used herein but not otherwise defined shall have the meaning given to them in the Portfolio Administration Agreement.

We hereby confirm in accordance with Clause 3.1(A) of the Portfolio Administration Agreement the appointment of GWM Limited as the Portfolio Administrator in relation to the following Series of ETP Securities [*specify relevant Series of ETP Securities*] (the “**ETP Securities**”) upon the terms of the Portfolio Administration Agreement for the purposes specified in the Portfolio Administration Agreement and in the Conditions and all matters incidental thereto.

In accordance with Clause 3.1(A) of the Portfolio Administration Agreement, please complete and return to us the copy of this letter duly signed by an authorised signatory confirming your acceptance of this appointment.

By confirming your acceptance of this appointment, in accordance with Clause 3.1(A) of the Portfolio Administration Agreement you shall be deemed to acknowledge and agree that the obligations purported to be imposed on the Portfolio Administrator in the Final Terms in relation to the ETP Securities (as set out in the Schedule hereto) shall apply to GWM Limited in its capacity as Portfolio Administrator.

This letter is governed by and construed in accordance with Irish law.

Yours faithfully

**Leverage Shares Public Limited Company**

***Acknowledged and agreed***

**GWM Limited as Portfolio Administrator**

**SCHEDULE TO THE CONFIRMATION OF APPOINTMENT  
OF PORTFOLIO ADMINISTRATOR**

*[insert Final Terms]*

**SIGNATURE PAGES TO THE PORTFOLIO ADMINISTRATION AGREEMENT**

**Issuer**

**LEVERAGE SHARES PUBLIC LIMITED COMPANY**

By:

**Trustee**

**APEX CORPORATE TRUSTEES (UK) LIMITED**

By:

**Portfolio Administrator**

**GWM LIMITED**

By: