

## Leverage Shares plc

18 December 2020

THIS NOTICE IS IMPORTANT AND REQUIRES THE IMMEDIATE ATTENTION OF THE HOLDERS OF THE ETP SECURITIES. IF ANY ETP SECURITYHOLDER IS IN ANY DOUBT AS TO THE ACTION THEY SHOULD TAKE, THEY SHOULD CONSULT THEIR OWN INDEPENDENT PROFESSIONAL ADVISERS IMMEDIATELY

**If you have recently sold or otherwise transferred your entire holding(s) of ETP Securities referred to below, you should immediately forward this document to the purchaser or transferee or to the stockbroker, bank or other agent through whom the sale or transfer was effected for transmission to the purchaser or transferee.**

### NOTICE OF MIGRATION TO ICSD

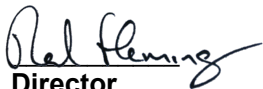
Leverage Shares plc (the “**Issuer**”) hereby gives notice that on 18 December 2020 the settlement and clearing system applicable to all the ETP Securities issued by the Issuer pursuant to its collateralised exchange traded securities programme (the “**Programme**”) as listed in the Schedule hereto (the “**ETP Securities**”), will change from CREST to Euroclear Bank and Clearstream Luxembourg (the “**Migration to ICSD**”).

Some changes to the Terms and Conditions governing the ETP Securities (the “**Revised Terms and Conditions**”) and the transaction documents in relation to the Programme will be necessary to facilitate the Migration to ICSD.

With effect from 18 December 2020, the Revised Terms and Conditions will apply with respect to all ETP Securities. A copy of the Revised Terms and Conditions highlighting the necessary amendments will be appended to this notice on the website of the Issuer [www.leverageshares.com](http://www.leverageshares.com).

If you have any queries arising from this notice, please contact us at [info@leverageshares.com](mailto:info@leverageshares.com).

Yours sincerely



**Director**  
**Leverage Shares plc**

## SCHEDULE

Leverage Shares 3x Alphabet ETP Securities  
Leverage Shares 3x Amazon ETP Securities  
Leverage Shares 3x Apple ETP Securities  
Leverage Shares 3x Facebook ETP Securities  
Leverage Shares 3x Microsoft ETP Securities  
Leverage Shares 3x Netflix ETP Securities  
Leverage Shares 3x NVIDIA ETP Securities  
Leverage Shares 3x Salesforce.com ETP Securities  
Leverage Shares 2x Advanced Micro Devices ETP Securities  
Leverage Shares 2x Alibaba ETP Securities  
Leverage Shares 2x Alphabet ETP Securities  
Leverage Shares 2x Amazon ETP Securities  
Leverage Shares 2x Apple ETP Securities  
Leverage Shares 2x Citigroup ETP Securities  
Leverage Shares 2x Facebook ETP Securities  
Leverage Shares 2x Goldman Sachs ETP Securities  
Leverage Shares 2x JPMorgan ETP Securities  
Leverage Shares 2x Micron Technology ETP Securities  
Leverage Shares 2x Microsoft ETP Securities  
Leverage Shares 2x Netflix ETP Securities  
Leverage Shares 2x NVIDIA ETP Securities  
Leverage Shares 2x Salesforce.com ETP Securities  
Leverage Shares 2x Tesla ETP Securities  
Leverage Shares 2x Twitter ETP Securities  
Leverage Shares 2x Uber ETP Securities  
Leverage Shares 2x Visa ETP Securities  
Leverage Shares -1x Advanced Micro Devices ETP Securities  
Leverage Shares -1x Alibaba ETP Securities  
Leverage Shares -1x Alphabet ETP Securities  
Leverage Shares -1x Amazon ETP Securities  
Leverage Shares -1x Apple ETP Securities  
Leverage Shares -1x Facebook ETP Securities  
Leverage Shares -1x Micron Technology ETP Securities  
Leverage Shares -1x Microsoft ETP Securities  
Leverage Shares -1x Netflix ETP Securities  
Leverage Shares -1x NVIDIA ETP Securities  
Leverage Shares -1x Salesforce.com ETP Securities  
Leverage Shares -1x Tesla ETP Securities  
Leverage Shares -1x Twitter ETP Securities  
Leverage Shares -1x Uber ETP Securities

## TERMS AND CONDITIONS OF THE ETP SECURITIES

*The following is the text of the terms and conditions which, subject to completion by the Final Terms relating to a particular Series or Tranche of ETP Securities, will be applicable to the ETP Securities of such Series or Tranche and which will be attached to or endorsed on such ETP Securities in definitive form (or, in the case of Registered Securities, on the Individual Certificates relating to such Registered Securities). Unless the context requires otherwise, references in these terms and conditions to "ETP Securities" are to the ETP Securities of one Series only, not to all ETP Securities which may be issued under the Programme from time to time.*

The ETP Securities are issued under the collateralised exchange traded securities programme of the Issuer (the "**Programme**").

In respect of a Series of ETP Securities, the ETP Securities of such Series will be constituted by (i) a supplemental trust deed dated the Issue Date of the first Tranche of ETP Securities of such Series and made between, among others, the Issuer and Apex Corporate Trustees (UK) Limited (the "**Trustee**", which expression shall include all persons for the time being the trustee or trustees under the Trust Deed (as defined below)), as trustee for the holders of the ETP Securities and the other persons specified therein (as amended, supplemented, novated and/or replaced from time to time, the "**Supplemental Trust Deed**"; and (ii) an amended and restated master trust deed originally dated the Programme Effective Date and as most recently amended and restated on ~~5-February~~6 November 2020 and made between the Issuer and the Trustee (as further amended, supplemented, novated and/or replaced from time to time, the "**Master Trust Deed**"). The Master Trust Deed and the Supplemental Trust Deed in respect of each Series of ETP Securities are referred to together as the "**Trust Deed**". These terms and conditions include summaries of, and are subject to, the detailed provisions of the Trust Deed.

The obligations of the Issuer under the ETP Securities of a particular Series are secured by the Security Documents in respect of such Series.

The following margin account agreements have been or will be entered into with respect to the Programme. The Final Terms shall specify whether the First Margin Account Agreement (as defined below) or the Second Margin Account Agreement (as defined below) applies with respect to a Series of ETP Securities. The defined term "**Margin Account Agreement**" herein shall mean with the First Margin Account Agreement or the Second Margin Account Agreement, as applicable.

- (i) The Issuer has entered into a side letter dated 5 December 2017 with the Margin Loan Provider, the Portfolio Administrator, the Custodian and the Trustee (the "**Side Letter**"), which amends and supplements the terms of the customer agreement dated 5 December 2017 between the Issuer, the Margin Loan Provider, the Portfolio Administrator and the Custodian (the "**Customer Agreement**"). Taken together, the Customer Agreement and the Side Letter constitute the "**First Margin Account Agreement**". The First Margin Account Agreement is governed under the law of England and Wales. The First Margin Account Agreement shall take effect as a separate and independent agreement in relation to each Series of ETP Securities issued under the Programme in respect of which Interactive Brokers (UK) Limited and Interactive Brokers LLC are appointed as the Portfolio Administrator, the Margin Loan Provider and the Custodian respectively.

The First Margin Account Agreement applies in relation to each of the Series of ETP Securities in respect of which Interactive Brokers (UK) Limited and Interactive Brokers LLC enter into a confirmation of appointment in the form set out in Annex 2 to the Side Letter.

- (ii) The Issuer has ~~or will enter~~entered into a New York law governed customer agreement between the Issuer and the Margin Loan Provider dated ~~on or before the Series Issue Date of the first Series of ETP Securities to be issued to which the Second Margin Account Agreement is specified in the relevant Final Terms to be applicable~~16 March 2020 (the "**Second Margin Account Agreement**").

The Second Margin Account Agreement sets out, amongst other things, the terms on which the Margin Loan Provider will provide certain securities accounts, margin accounts, collateral accounts,

margin loans and securities loans to the Issuer in respect of each Series of ETP Securities to which it is applicable.

The Margin Loan Provider does not guarantee payment by the Issuer to the ETP Securityholders of amounts due in respect of the ETP Securities, and no ETP Securityholder will have any claim against any Margin Loan Provider in respect of amounts due in respect of any ETP Securities.

The following portfolio administration agreements have been entered into with respect to the Programme. The Final Terms shall specify which portfolio administration agreement applies with respect to a Series of ETP Securities. The defined term "**Portfolio Administration Agreement**" herein shall mean either the First Portfolio Administration Agreement (as defined below) or the Second Portfolio Administration Agreement (as defined below), as applicable.

- (i) The Issuer, the Trustee, the Custodian and Interactive Brokers (UK) Limited have entered into an Irish law governed amended and restated portfolio administration agreement originally dated the Programme Effective Date and as amended and restated on 5 February 2020 (the "**First Portfolio Administration Agreement**").

Pursuant to the terms of the First Portfolio Administration Agreement, for each Series of ETP Securities to which the First Portfolio Administration Agreement is applicable, the net proceeds of issuance of such Series of ETP Securities on the Issue Date of such Series, or from the issuance of a further Tranche of such Series, will be deposited with the Custodian, and the Portfolio Administrator will procure that such net proceeds of issuance and the Leveraged Investment Amount (as defined below) shall be invested in the Reference Assets of the relevant Index of such Series of ETP Securities, which shall be held by the Custodian on behalf of the Issuer in the Margin Account.

The "**Leveraged Investment Amount**" will be the amount of margin that the Margin Loan Provider will extend by way of credit to the Issuer in the Relevant Currency equal to the product of (i) the difference between the Leverage Factor and one and (ii) the net proceeds of the issuance.

- (ii) ~~On 5 February 2020 the~~ The Issuer, the Trustee and GWM Limited entered into an Irish law governed amended and restated portfolio administration agreement originally dated 5 February 2020 and as amended and restated on 6 November 2020 (the "**Second Portfolio Administration Agreement**").

Pursuant to the terms of the Second Portfolio Administration Agreement, for each Series of ETP Securities to which Second Portfolio Administration Agreement is applicable, the net proceeds of issuance of such Series of ETP Securities on the Issue Date of such Series, or from the issuance of a further Tranche of such Series, will be paid to the Margin Loan Provider, on behalf of the Issuer, and invested as follows:

- in the case of Series of ETP Securities offering Leveraged Exposures where the Reference Assets are Physical Assets, the net proceeds of issuance and the Leveraged Investment Amount will be invested in the Reference Assets referenced by the relevant Index or Investment Strategy of such Series in order to replicate (to the degree practicable) the return of the Index referenced by such Series or to pursue the Investment Strategy referenced by such Series, taking into account the applicable Leverage Factor. Amounts standing to the credit of the Margin Account from time to time, to the extent not required to be invested in Reference Assets to replicate (to the degree practicable) the return of the Index or to pursue the Investment Strategy, may at the direction of the Portfolio Administrator be maintained as cash balances in the Margin Account or invested in Ancillary Assets;
- in the case of ETP Securities offering Normal Exposures where the Reference Assets are Physical Assets, the net proceeds of issuance will be invested in the Reference Assets referenced by the relevant Index or Investment Strategy of such Series 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. Amounts standing to the credit of the Margin Account from time to time, to the extent not required to be invested in Reference Assets to replicate the return of the Index or to pursue the Investment Strategy, may at the discretion of the Portfolio Administrator be maintained as cash balances in the Margin Account or invested in Ancillary Assets.

- in the case of Series of ETP Securities offering Short Exposures where the Reference Assets are Physical Assets, the net proceeds of issuance will, at the discretion of the Portfolio Administrator be invested in Ancillary Assets or maintained as cash balances and will be held in the Margin Account along with the proceeds of short selling Reference Assets which shall be borrowed from the Margin Loan Provider in order to replicate (to the degree practicable) the return of the Index referenced by such Series or to pursue the Investment Strategy referenced by such Series, taking into account the applicable Leverage Factor; ~~and~~
- in the case of ETP Securities linked to an Index or which pursue an Investment Strategy where the Reference Assets are futures contracts, the net proceeds of issuance will be used to fund the related Margin Accounts as may be required to maintain 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. Amounts standing to the credit of the Margin Account may also, at the discretion of the Portfolio Administrator, be maintained as cash balances in the Margin Account or invested in Ancillary Assets.

The following agency agreements have been entered into with respect to the Programme. The Final Terms shall specify which agency agreement applies with respect to a Series of ETP Securities. The defined term “Agency Agreement” herein shall mean either the First Agency Agreement (as defined below) or the Second Agency Agreement (as defined below), as applicable.

- (i) An amended and restated agency agreement originally dated the Programme Effective Date and as amended and restated on 5 February 2020 (as further amended, supplemented novated and/or replaced from time to time, the “**First Agency Agreement**”) has been entered into in relation to the ETP Securities between the Issuer, the Trustee, ~~the Issuing and Paying Agent (as defined below)~~ GWM Limited, the CREST Settlement Agent (as defined below), ~~the Registrar (as defined below)~~ Link Registrars Limited and the Arranger (as defined below). The First Agency Agreement applies with respect to Series of ETP Securities which are cleared through CREST.
- (ii) An agency agreement dated 18 December 2020 has been entered into in relation to the ETP Securities between the Issuer, the Trustee, Elavon Financial Services DAC and the Arranger (the “**Second Agency Agreement**”). The Second Agency Agreement applies with respect to Series of ETP Securities which are cleared through Euroclear and / or Clearstream, Luxembourg.

The following operating procedures agreements have been entered into with respect to the Programme. The Final Terms shall specify which operating procedures agreement applies with respect to a Series of ETP Securities. The defined term “Operating Procedures Agreement” herein shall mean either the First Operating Procedures Agreement (as defined below) or the Second Operating Procedures Agreement (as defined below), as applicable.

- (i) An amended and restated operating procedures agreement originally dated the Programme Effective Date and ~~as~~ amended and restated on 5 February 2020 (as further amended, supplemented, novated and/or replaced from time to time, the “**First Operating Procedures Agreement**”) has been entered into in order to establish certain operation procedures in relation to ETP Securities issued under the Programme between, among others, the Issuer, the Initial Margin Loan Provider (as defined below), the Initial Authorised Participant (as defined below), and the ~~Initial~~ Second ~~Authorised Participant~~ participant (as defined below); to which each Additional Authorised Participant has

acceded. [The First Operating Procedures Agreement applies with respect to Series of ETP Securities which are cleared through CREST.](#)

- (ii) [An operating procedures agreement dated 18 December 2020 \(the "Second Operating Procedures Agreement"\) has been entered into in order to establish certain operation procedures in relation to ETP Securities issued under the Programme between, among others, the Issuer, the Initial Margin Loan Provider \(as defined below\), the Initial Authorised Participant \(as defined below\), and the Second Authorised participant \(as defined below\) to which each Additional Authorised Participant has acceded. The Second Operating Procedures Agreement applies with respect to Series of ETP Securities which are cleared through Euroclear and / or Clearstream, Luxembourg.](#)

~~A~~[An amended and restated](#) broker dealer of record agreement [originally](#) dated 5 February 2020 ~~(as and most recently amended and restated on 18 December 2020 (as further~~ amended, supplemented, novated and/or replaced from time to time, the "**Broker Dealer of Record Agreement**") has been entered into between the Issuer and the Broker Dealer of Record (as defined below) pursuant to which the Broker Dealer of Record has agreed to provide certain broker dealer related services and support for the Issuer.

An amended and restated services agreement originally dated 2 February 2018 and as [most recently](#) amended and restated on ~~5 February~~[6 November](#) 2020 (as further amended, supplemented, novated and/or replaced from time to time, the "**Services Agreement**") has been entered into between the Issuer and the Arranger (as defined below) pursuant to which the Arranger has agreed to provide certain management, administration and arrangement services to the Issuer and to discharge certain fees, costs and expenses incurred by the Issuer in respect of the Programme and the ETP Securities.

An amended and restated agreement for the provision of ETP registration services originally dated the Programme Effective Date and as amended and restated on 5 February 2020 (as further amended, supplemented, novated and/or replaced from time to time, the "**Registrar Agreement**") has been entered into between the Issuer, the Registrar (as defined below), the Arranger (as defined below), ~~the Issuing and Paying Agent (as defined below)~~[GWM Limited](#) and the CREST Settlement Agent (as defined below) pursuant to which the Registrar has agreed to provide certain registrar services for the Issuer. [The Registrar Agreement applies with respect to Series of ETP Securities which are cleared through CREST.](#)

An amended and restated determination agency agreement originally dated 30 August 2019 and as [most recently](#) amended and restated on ~~5 February~~[6 November](#) 2020 (as further amended, supplemented, novated and/or replaced from time to time, the "**Determination Agency Agreement**") has been entered into between the Issuer, the Trustee, the Arranger (as defined below) and the Determination Agent (as defined below) pursuant to which the Determination Agent has agreed to provide certain calculation services for the Issuer.

The ETP Securityholders are bound by, and are deemed to have notice of, all the provisions of the Trust Deed, the Margin Account Agreement, the Portfolio Administration Agreement, the Agency Agreement, the Operating Procedures Agreement, the Broker Dealer of Record Agreement, the Services Agreement, the Registrar Agreement, the Master Definitions Schedule (as defined below), and each of the other Programme Documents (as defined below) which are applicable to them and to have notice of each set of Final Terms (as defined below) issued in respect of a Series or Tranche of ETP Securities held by such ETP Securityholders.

The terms and conditions of a Series of ETP Securities will be the conditions set out below as completed by the Final Terms applicable to such Series. References herein to the "**Conditions**" of the ETP Securities are to these terms and conditions as so completed by the Final Terms applicable to the ETP Securities.

## 1. Definitions

### 1.1 Definitions

In the Conditions, unless the context otherwise requires, the following defined terms shall have the meanings set out below:

**"Additional Authorised Participant"** means any Eligible Authorised Participant (other than the Initial Authorised Participant or the Second Authorised Participant) that has entered into an Authorised Participant Agreement with the Issuer and has acceded to the Operating Procedures Agreement.

**"Additional Security Document"** means, any security document relating to the ETP Securities designated as such by Issuer and the Trustee, as amended, supplemented, novated and/or replaced from time to time but, for the avoidance of doubt, not including the Trust Deed or the Margin Account Security Agreement.

**"Adjustment Event"** means an Index Cancellation, an Index Modification, an Index Disruption or an Investment Strategy Modification.

**"Affiliate"** means, in relation to any person or entity, any other person or entity controlled, directly or indirectly, by the person or entity, any other person or entity that controls, directly or indirectly, the person or entity or any other person or entity directly or indirectly under common control with the person or entity. For these purposes, **"control"** of any entity or person means the power, directly or indirectly, either to (a) vote 10 per cent. or more of the securities having ordinary voting power for the election of directors of the relevant person or entity or (b) direct or cause the direction of the management and policies of such person or entity whether by contract or otherwise.

**"Agents"** means any agent(s) as may be appointed from time to time in relation to the ETP Securities under the Programme Documents or any other agreement with the Issuer under which such agent is appointed from time to time in relation to the ETP Securities, as applicable, and any successor or replacement and **"Agent"** means any of them.

**"Ancillary Assets"** means sovereign debt in the currency of denomination of the ETP Securities with an original maturity of less than one month which is rated at least A-1 by Standard & Poor's Ratings Services, and/or P-1 by Moody's Investors Service Ltd. and/or F1 by Fitch Ratings Limited.

**"Arranger"** means Leverage Shares Management Company Limited.

**"Arranger Fee"** means a fee charged by the Arranger ~~at a rate of 0.75% per annum of the ETP Security Value of the~~ in relation to each Series of ETP Securities ~~held by an ETP Securityholder~~, as modified by the Arranger from time to time, as set out in the Base Prospectus of the Issuer.

**"Authorised Participant"** means the Initial Authorised Participant, the Second Authorised Participant and any Additional Authorised Participant.

**"Authorised Participant Agreement"** means, in respect of an Authorised Participant, the authorised participant agreement (as amended, supplemented, novated and/or replaced from time to time) entered into by the Issuer and such Authorised Participant.

**"Bearer Securities"** has the meaning given to it in Condition 2.

**"Broker Dealer of Record"** means GWM Limited or any successor or replacement thereto or any other entity appointed as broker dealer of record in accordance with the terms of the Broker Dealer of Record Agreement.

**"Central Bank"** means the Central Bank of Ireland in its capacity as the competent authority in Ireland under the Prospectus Regulation.

"CGN" means a Global Bearer Security in classic global note form.

"Clearing System Business Day" means a day on which the Relevant Clearing System is open for the purpose of effecting settlement of ETP Securities.

"Clearstream, Luxembourg" means Clearstream Banking, S.A., Luxembourg and any successor thereto.

"Collateral Assets" means:

- (A) in the case of Leveraged Exposures and Normal Exposures where the Reference Assets are Physical Assets:
    - (i) the Reference Assets of the applicable Index or Investment Strategy for such Series of ETP Physical Assets;
    - (ii) Ancillary Assets; and
    - (iii) any cash;
  - (B) in the case of Short Exposures where the Reference Assets are Physical Assets:
    - (i) the mark to market value of securities loans;
    - (ii) the Ancillary Assets; and
    - (iii) any cash; and
  - (C) in the case of ETP Securities where the Reference Assets are futures contracts:
    - (i) the mark to market value of the futures contract;
    - (ii) the Ancillary Assets; and
    - (iii) any cash,
- in each case as held in the Margin Account.

"Common Safekeeper" means, in relation to a Series of ETP Securities issued in NGN or NSS form, the common safekeeper for Euroclear or Clearstream, Luxembourg appointed in respect of such Series.

"CREST" means the system for the paperless settlement of trades and the holding of uncertificated securities operated by EUI in accordance with the Uncertificated Regulations, as amended from time to time.

~~"CREST Business Day" means for any matter relating solely to settlement in euro, a day on which (a) the EUI systems are operational and (b) the TARGET2 System is open.~~

~~For any matter relating solely to settlement in US dollars, a 'business day' is a day on which (a) the EUI systems are operational (other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England or on which banking transactions in England are suspended under section 2 of the Banking and Financial Dealings Act 1971); and (b) banks are generally open for business in New York.~~

~~For all other purposes, a 'business day' is a day on which the EUI systems are operational other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England~~



~~or on which banking transactions in England are suspended under section 2 of the Banking and Financial Dealings Act 1971.~~

**"CREST Settlement Agent"** means, in respect of Series of ETP Securities which are cleared through CREST, Link Market Services Trustees Limited.

**"Currency Business Day"** means a day on which commercial banks and foreign exchange markets are open for general business (including dealings in foreign exchange and foreign currency deposits) in the principal financial centre of the Relevant Currency or, in the case of euros, a city in which banks in general have access to the TARGET2 System.

**"Custodian"** means, in respect of Series to which the First Portfolio Administration Agreement is stated in the Final Terms to be applicable, Interactive Brokers LLC or any successor or replacement thereto or any other entity appointed as custodian in accordance with the terms of the First Portfolio Administration Agreement.

**"Definitive Securities"** means Bearer Securities in definitive form and includes any replacement ETP Security issued pursuant to these Conditions.

**"Denomination"** means, in respect of a Series of ETP Securities, an amount equal to its Principal Amount.

**"Determination Agent"** means Calculation Agent Services LLC and any successor or replacement thereto or any other entity appointed as determination agent in accordance with the terms of the Determination Agency Agreement.

**"Determination Agent Breach"** has the meaning given to it in Condition 10.6(B).

**"Disrupted Day"** means:

- (A) in respect of any Series of ETP Securities for which the Final Terms specify that 'Multiple Exchange' is not applicable, any Scheduled Trading Day on which a relevant Exchange or any Related Exchange fails to open for trading during its regular trading session or on which a Market Disruption Event or a Severe Disruption Event has occurred; and
- (B) in respect of Index-linked Series of ETP Securities for which the Final Terms specify that 'Multiple Exchange' is applicable, any Scheduled Trading Day on which (i) the Index Sponsor fails to publish the level of the Index; (ii) the Related Exchange fails to open for trading during its regular trading session; or (iii) a Market Disruption Event or a Severe Disruption Event has occurred; and
- (C) in respect of any Series of ETP Securities which pursue an Investment Strategy, for which the Final Terms specify that 'Multiple Exchange' is applicable, any Scheduled Trading Day on which (i) the Related Exchange fails to open for trading during its regular trading session; or (ii) a Market Disruption Event or a Severe Disruption Event has occurred.

**"Disruption Event"**, in respect of a Series of ETP Securities, means any event that causes a Valuation Date in respect of that Series to be a Disrupted Day.

**"Disruption Redemption Event"** has the meaning given to it in Condition 9.3(C).

~~**"Dublin Business Day"** means a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments in Dublin.~~

**"Early Closure"** means the closure on any Exchange Business Day of the Exchange or any Related Exchange prior to its Scheduled Closing Time unless such earlier closing time is announced by such Exchange or Related Exchange at least one hour prior to the earlier of (i) the actual closing time for the regular trading session on the Exchange or Related Exchange on such Exchange

Business Day and (ii) the submission deadline for orders to be entered into the Exchange or Related Exchange system for execution at the Valuation Time on such Exchange Business Day.

"**EEA**" means the European Economic Area.

"**Eligible Authorised Participant**" means any entity that meets the requirements of the Operating Procedures Agreement.

"**English Law Margin Account Security Agreement**" means the English law governed margin account security agreement entered into between the Issuer and the Trustee on 5 February 2020 with respect to the First Margin Account Agreement.

"**EONIA**" means the interest rate at which banks of sound financial standing in the European Union and European Free Trade Area countries lend funds in the interbank money market in euro as, published by the European Money Markets Institute and appearing on the Bloomberg page EONIA Index or any substituted publication and/or page therefor in respect of that day or the immediately preceding day for which it had a value, or, if not available, ascertained from any other source as the Margin Loan Provider may deem appropriate.

"**ETP Securities**" means the Series of ETP Securities to which these Conditions relates or, as the context may require, any or all securities issued by the Issuer under the Programme.

"**ETP Security Value**" has the meaning given to it in Condition 5.

"**ETP Securityholder**" and "**holder**" mean the bearer of any Bearer Security or the person in whose name a Registered Security or an Uncertificated Registered Security is registered (as the case may be).

"**ETP Securityholder Notice and Direction**" has the meaning given to it in Condition 8.7.

"**EUI**" means Euroclear UK & Ireland Limited (formerly known as CRESTCO Limited) incorporated in England and Wales under number 2878738.

"**Euroclear**" means Euroclear Bank S.A./N.V. and any successor thereto.

"**Event of Default**" has the meaning given to it in Condition 12.

"**Event of Default Redemption Notice**" has the meaning given to it in Condition 12.

"**Exchange**" means the exchange specified in the Final Terms.

"**Exchange Business Day**" means:

- (A) in respect of any Series of ETP Securities for which the Final Terms specify that 'Multiple Exchange' is not applicable, any Scheduled Trading Day on which the Exchange and each Related Exchange are open for trading during their respective regular trading sessions, notwithstanding any such Exchange or Related Exchange closing prior to its Scheduled Closing Time; and
- (B) in respect of any Index-linked Series of ETP Securities for which the Final Terms specify that 'Multiple Exchange' is applicable, any Scheduled Trading Day on which (i) in the case of Index-linked Series, the Index Sponsor publishes the level of the Index, and (ii) the Related Exchange is open for trading during its regular trading session, notwithstanding the Related Exchange closing prior to its Scheduled Closing Time; and
- (C) in respect of any Series of ETP Securities which pursue an Investment Strategy ~~for which the Final Terms specify that 'Multiple Exchange' is applicable,~~ any Scheduled Trading Day

on which ~~the Related Exchange is~~ all the exchanges where the Reference Assets of the Investment Strategy are listed are open for trading during ~~its~~their regular trading ~~session~~sessions, notwithstanding ~~the Related Exchange~~ any such exchanges closing prior to ~~its~~their Scheduled Closing Time.

**"Exchange Date"** has the meaning given to it in Condition 3.1.

**"Exchange Disruption"** means any event (other than Early Closure) that disrupts or impairs (as determined by the Arranger) the ability of market participants in general to effect transactions in, or obtain market values for: (i) the Reference Asset on the Exchange; or (ii) futures or options contracts relating to the applicable Series of ETP Securities on the Related Exchange.

**"Exchangeable Bearer Securities"** has the meaning given to it in Condition 2.

**"Extraordinary Resolution"** means a resolution passed at a meeting duly convened and held in accordance with schedule 7 of the Master Trust Deed by a majority of at least 75 per cent. of the votes cast, provided that a resolution in writing signed by or on behalf of the holders of not less than 75 per cent. of the aggregate number of the ETP Securities who for the time being are entitled to receive notice of a meeting held in accordance with the Master Trust Deed shall, for all purposes, be as valid and effectual as an Extraordinary Resolution passed at a meeting of such ETP Securityholders duly convened and held in accordance with the relevant provisions of the Master Trust Deed.

**"Fed Funds Effective Rate"** means, in respect of a day, the rate of interest (expressed as an annual rate) as published in Federal Reserve Statistical Release H.15 (519) or Reuters Screen FEDFUNDS 1 Page or Bloomberg Page FEDL01 INDEX or any substituted publication therefor, charged for federal funds (dollars in immediately available funds borrowed by banks on an overnight unsecured basis) on that day or the immediately preceding day for which it had a value, or, if not available, ascertained from any other source as the Margin Loan Provider may deem appropriate.

~~**"Fees"** means the Arranger Fees and any other fees incurred by the Issuer in respect of a Series of ETP Securities.~~

**"Final Redemption Amount"** means an amount per ETP Security calculated by the Determination Agent equal to the greater of:

- (A) the Principal Protection Amount of an ETP Security; and
- (B) the Pro-rata Liquidation.

**"Final Redemption Date"** means for each Series, the final redemption date specified in the Final Terms for such Series.

**"Final Redemption Settlement Date"** means the day that falls three Currency Business Days after the Final Redemption Date.

**"Final Terms"** means the final terms specifying the relevant issue details of the ETP Securities.

**"First New York Law Margin Account Security Agreement"** means the New York law governed margin account security agreement entered into between the Issuer and the Trustee on 5 February 2020 with respect to the First Margin Account Agreement.

**"Funding and Brokerage Fees"** means, in respect of a Series, all applicable fees other than the Arranger Fees, including, but not limited to, margin interest, securities lending fees, brokerage fees and costs of transaction taxes on the sale or purchase of Reference Assets (where relevant).

**"Further Tranche"** means any Tranche of a Series of ETP Securities issued after the Series Issue Date in accordance with Condition 16.

**"GBP LIBOR"** means, in respect of a day, the rate for deposits in pounds sterling for a period of 12 months which appears on Bloomberg Page BP0012M INDEX for that day, or, if not available, ascertained from any other source as the Margin Loan Provider may deem appropriate

**"Global Bearer Security"** means the ETP Securities in bearer form represented by a global security.

**"Global Registered Certificate"** means a global certificate representing ETP Securities in registered form.

**"Global Security"** means a Global Bearer Security or a Global Registered Certificate.

**"Index"** means the index specified for the ETP Securities in the Final Terms, or any Successor Index.

**"Index Business Day"** means, in respect of an Index, any day on which the Index Sponsor in respect of such Index is scheduled to publish the level of the Index.

**"Index Cancellation"** means in respect of an Index, the Index Sponsor in respect of that Index permanently cancels such Index and no Successor Index is designated.

**"Index Disruption"** means in respect of an Index on any Valuation Date, the Index Sponsor fails to calculate and announce such Index.

**"Index Level"** means, in respect of an Index on any Valuation Date, the level of the Index published by the Index Sponsor.

**"Index Modification"** means in respect of an Index, the Index Sponsor announces that it shall make a material change in the formula for or the method of calculating that Index or in any other way materially modifies that Index (other than a modification prescribed in that formula or method to maintain that Index in the event of changes in constituent stock and capitalisation and other routine events).

**"Index Sponsor"** means the index sponsor as specified in the Final Terms of a Series of ETP Securities.

**"Individual Certificate"** means, in respect of Registered Securities, a definitive certificate in registered form representing such Registered Securities.

**"Initial Authorised Participant"** means BNP Paribas Arbitrage S.N.C. and any successor thereto.

**"Initial Early Redemption Event"** has the meaning given to it in Condition 8.7.

**"Initial Margin Loan Provider"** means Interactive Brokers LLC.

**"Initial Tranche"** means the first Tranche of a Series of ETP Securities issued.

**"Investment Strategy"** means the investment strategy specified for the ETP Securities in the Final Terms.

**"Investment Strategy Modification"** means with respect to an Investment Strategy, the Portfolio Administrator makes operational adjustments to the Investment Strategy to ensure that, so far as possible, the basic principles and economic effect of the Investment Strategy are maintained or any material modification to the Investment Strategy or its implementation by the Portfolio Administrator.

**"Issue Date"** means the date of issuance of the relevant Tranche as specified in the Final Terms relating to such Tranche.

**"Issue Price"** means, in respect of a Tranche of ETP Securities, the amount per ETP Security specified in the Final Terms.

**"Issuer"** means Leverage Shares Public Limited Company, a public limited company incorporated under the laws of Ireland with registration number 597399.

**"Issuer Call Redemption Notice"** has the meaning given to it in Condition 8.6.

**"Issuer Redemption Notice"** has the meaning given to it in Condition 8.7.

**"Issuer's Website"** means the website having the following internet address: [www.leverageshares.com](http://www.leverageshares.com) or such other internet address as may be used by the Issuer and notified to ETP Securityholders and the Trustee in accordance with Condition 17.

**"Issuing and Paying Agent"** means ~~Link-ASI Limited~~ [any entity](#) and any successor or replacement thereto ~~or any other entity appointed as issuing and paying agent pursuant to the~~ [as specified in the Final Terms for each Series of ETP Securities, appointed as Issuing and Paying Agent in accordance with the terms of the relevant Agency Agreement.](#)

**"Leveraged Exposure"** means a leveraged long exposure to the Reference Asset.

**"Leverage Factor"** means the leverage factor in respect of a Series of ETP Securities as specified in the relevant Final Terms.

**"London Business Day"** means [a day \(other than a Saturday or Sunday or public holiday\) on which commercial banks and foreign exchange markets settle payments in London.](#)

**"Loss"** means any loss, liability, cost, claim, damages, expense (including, but not limited to, legal costs and expenses) or demand (or actions in respect thereof), judgment, interest on any judgment, assessment, fees or amounts paid in settlement of any action or claim.

**"Mandatory Redemption"** means a redemption of ETP Securities in accordance with Condition 8.7.

**"Mandatory Redemption Amount"** means an amount per ETP Security calculated by the Determination Agent equal to the greater of:

- (A) the Principal Protection Amount of such ETP Security; and
- (B) the Pro-rata Liquidation.

**"Mandatory Redemption Date"** means, in respect of a Mandatory Redemption Event, the date designated as such in accordance with Condition 8.7.

**"Mandatory Redemption Event"** has the meaning given to it in Condition 8.7.

**"Mandatory Redemption Settlement Date"** means, in respect of a Mandatory Redemption Event, the day that falls three Currency Business Days after the day on which the Issuer has received payment in full from the Margin Loan Provider of the amounts payable in respect of the termination of the Margin Account Agreement.

**"Margin Account"** means each account of the Custodian (in respect of Series to which the First Portfolio Administration Agreement is stated in the Final Terms to be applicable) or the Margin Loan Provider (in respect of Series to which the Second Portfolio Administration Agreement is stated in the Final Terms to be applicable) in which the Collateral Assets and any cash in respect of a Series of ETP Securities will be held by the Custodian or the Margin Loan Provider on behalf of the Issuer.

**"Margin Loan Provider"** means the Initial Margin Loan Provider, subject to replacement by a replacement Margin Loan Provider, and any of their respective successors.

**"Margin Account Security Agreement"** means either (i) the English Law Margin Account Security Agreement and the First New York Law Margin Account Security Agreement; or (ii) the Second New York Law Margin Account Security Agreement, as specified in the Final Terms for each Series of ETP Securities.

**"Market Disruption Event"** means:

- (A) in respect of a Series of ETP Securities for which the Final Terms specify that 'Multiple Exchange' is not applicable, the occurrence or existence of (i) a Trading Disruption, (ii) an Exchange Disruption which in either case the Portfolio Administrator determines in good faith and in a commercially reasonable manner to be material, at any time during the one hour period that ends at the relevant Valuation Time, or (iii) an Early Closure; and
- (B) in respect of a Series of ETP Securities for which the Final Terms specify that 'Multiple Exchange' is applicable, either:
  - (1) the occurrence or existence, in respect of the Reference Asset, of:
    - (i) a Trading Disruption, which the Portfolio Administrator determines in good faith and in a commercially reasonable manner is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Reference Asset is principally traded;
    - (ii) an Exchange Disruption, which the Portfolio Administrator determines in good faith and in a commercially reasonable manner is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Reference Asset is principally traded; or
    - (iii) an Early Closure.

**"Master Definitions Schedule"** means the amended and restated schedule of definitions relating to the Programme originally dated the Programme Effective Date and as most recently amended and restated on ~~5 February~~ 18 December 2020 (as further amended, supplemented and/or replaced from time to time).

**"Maximum Daily Redemption Limit"** means a maximum limit (if applicable) on the redemption number of ETP Securities of a Series on any Optional Redemption Pricing Date, as may be amended by the Margin Loan Provider from time to time in accordance with the terms of the Margin Account Agreement and the Operating Procedures Agreement.

**"NGN"** means a Global Bearer Security in new global note form.

**"Non-Disrupted Valuation Date"** means a Valuation Date which is not a "Disrupted Day".

**"Normal Exposure"** means a +1x exposure to the Reference Asset.

**"Notice Deadline"** means 2.30 p.m. (Dublin time), provided that the Notice Deadline in respect of any Series of ETP Securities may be adjusted by agreement between the Issuer and the Margin Loan Provider with effect from the fifth calendar day following the date on which notice of such adjustment is given to the holders in accordance with Condition 17.

**"Obligor"** means each person that has an obligation to the Issuer pursuant to the Secured Property.

~~"Operating Procedures Agreement" means the amended and restated operating procedures agreement entered into on the Programme Effective Date and as amended and restated on 5 February 2020.~~

**"Optional Redemption"** means the redemption of ETP Securities at the option of one or more ETP Securityholders in accordance with the provisions of Condition 8.2.

**"Optional Redemption Amount"** means an amount per ETP Security calculated by the Determination Agent equal to the greater of:

- (A) the Principal Protection Amount of an ETP Security; and
- (B) the Pro-rata Liquidation.

**"Optional Redemption Pricing Date"** means a Valuation Date on which a Redemption Order is determined to be valid and accepted by or on behalf of the Issuer in accordance with the terms of the Operating Procedures Agreement.

**"Optional Redemption Settlement Date"** means the second Valuation Date after the Optional Redemption Pricing Date, provided that such Valuation Date is not a Disrupted Day and that such Valuation Date is both a Currency Business Day and a ~~CREST~~[Clearing System](#) Business Day.

**"outstanding"** means, for the purposes of the Conditions, the Margin Account Agreement and the Trust Deed, in relation to the ETP Securities and a Valuation Date, (i) on the Series Issue Date, the ETP Securities issued on such date, and (ii) on any Valuation Date thereafter, all the ETP Securities issued on or prior to such Valuation Date except (a) those that have been redeemed in accordance with Condition 8; (b) those that have been cancelled for any reason; (c) those in respect of which the date for redemption has occurred and the redemption moneys have been duly paid to the Trustee or to the Issuing and Paying Agent and which remain available for payment against presentation and surrender of ETP Securities; (d) those that have become void or in respect of which claims have become prescribed; (e) those which have been issued and which are pending settlement to an Authorised Participant but in respect of which the relevant Authorised Participant(s) has not paid in full the relevant subscription amount under the Authorised Participant Agreement; (f) those in respect of which a Final Redemption Settlement Date, Mandatory Redemption Settlement Date or Optional Redemption Settlement Date has occurred and in respect of which the Issuer (or the Trustee or the Issuing and Paying Agent, as the case may be) has received in full the related termination payment under the Margin Account Agreement; (g) those that have been purchased, settled and cancelled as provided in Condition 8.4; (h) those mutilated or defaced Bearer Securities that have been surrendered in exchange for replacement Bearer Securities; (i) (for the purpose only of determining how many ETP Securities are outstanding and without prejudice to their status for any other purpose) those Bearer Securities alleged to have been lost, stolen or destroyed and in respect of which replacement ETP Securities have been issued and (j) any Global Bearer Security to the extent that it shall have been exchanged for one or more Definitive Securities pursuant to its provisions; provided that for the purposes of (1) ascertaining the right to attend and vote at any meeting of the ETP Securityholders, (2) the determination of how many ETP Securities are outstanding for the purposes of the Conditions, the Margin Account Agreement and the Trust Deed and (3) the exercise of any discretion, power or authority that the Trustee is required, expressly or impliedly, to exercise in or by reference to the interests of the ETP Securityholders, those ETP Securities that are beneficially held by or on behalf of the Issuer and not cancelled shall (unless no longer so held) be deemed not to remain outstanding. For the avoidance of doubt, ETP Securities (if any) which the Issuer has agreed on or prior to such Valuation Date to redeem but in respect of which the related termination payment under the Margin Account Agreement has not yet been paid in full to the Issuer (or the Trustee or Issuing and Paying Agent, as applicable) shall be deemed to be "outstanding" on such Valuation Date and ETP Securities (if any) which the Issuer has agreed on or prior to such Valuation Date to issue but in respect of which payment of the relevant subscription amount has not been received in full from the relevant Authorised

Participant(s) and settlement to such relevant Authorised Participant(s) has not yet occurred shall not be deemed to be "outstanding" on such Valuation Date.

**"Paying Agent"** means any entity as may be appointed from time to time as paying agent of the Issuer in accordance with Condition 10.7, and any successor or replacement thereto.

**"Payment Business Day"** means, in respect of any ETP Securities, any day (i) on which the Relevant Clearing System is open and (ii) which is a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in ~~Dublin~~London and the financial centre of the Relevant Currency which, in the case of a payment in EUR, is a TARGET Settlement Day.

**"Physical Assets"** means equity securities, debt securities, fixed income securities and units in exchanged traded funds.

**"Portfolio Administrator"** means ~~either Interactive Brokers (UK) Limited and any successor or replacement thereto or GWM Limited~~any entity and any successor or replacement thereto, as specified in the Final Terms for each Series of ETP Securities, ~~or any other entity~~ appointed as Portfolio Administrator in accordance with the terms of the relevant Portfolio Administration Agreement.

**"Potential Event of Default"** means an event or circumstance that could, with the giving of notice, lapse of time and/or issue of a certificate become an Event of Default.

**"Principal"** means the Final Redemption Amount, the Optional Redemption Amount or the Mandatory Redemption Amount (as applicable).

**"Principal Amount"** means, in respect of any ETP Security, the amount in the Relevant Currency specified in the Final Terms.

**"Principal Protection Amount"** means an amount per ETP Security, in respect of each Tranche of ETP Securities, corresponding to 2.00 per cent of the Principal Amount for the ETP Security of such Tranche.

**"Pro-rata Liquidation"** means an amount equal to the liquidation of the relevant Collateral Assets held in the Margin Account for a Series of ETP Securities, pro rata to the amount of ETP Securities being redeemed divided by the total number of ETP Securities for such Series, after the pro rata deduction of all costs and expenses incurred by the Issuer in connection with the liquidation of such Collateral Assets, the pro rata deduction of the Arranger Fee and any Funding and Brokerage Fees.

**"Proceedings"** has the meaning given to it in Condition 19.2.

**"Programme Document"** means each of the Master Trust Deed, the Agency Agreement, the Registrar Agreement, the Margin Account Agreement, the Margin Account Security Agreement, the Portfolio Administration Agreement, the Operating Procedures Agreement, the Determination Agency Agreement, the Broker Dealer of Record Agreement, the Services Agreement and each Authorised Participant Agreement and **"Programme Documents"** means all such documents.

**"Programme Effective Date"** means 5 December 2017.

**"Programme Maximum Number of ETP Securities"** means 1,000,000,000.

**"Programme Party"** means a party to a Programme Document (other than the Issuer and ETP Securityholders).

**"Prospectus Regulation"** means Regulation (EU) 2017/1129.

**"Publication Event Redemption Notice"** has the meaning given to it in Condition 8.7.



**"Publication Failure Event"** has the meaning given to it in Condition 8.7.

**"Rebalance Business Day"** means any day which is a ~~Trading, Exchange~~ Business Day and also a day on which commercial banks and foreign exchange markets settle payment in the country in which the relevant Reference Asset is admitted to trading or any other day designated as a Rebalance Business Day by the Issuer.

**"Record Date"** means the Clearing System Business Day immediately prior to the date for payment, ~~where "Clearing System Business Day" means Monday to Friday inclusive except 25 December and 1 January.~~

**"Redemption Amount"** means either the Final Redemption Amount, the Optional Redemption Amount or the Mandatory Redemption Amount.

**"Redemption Account"** means, in respect of ETP Securities, a bank account to receive payments in the Relevant Currency of the Optional Redemption Amount in respect of the redemption of such ETP Securities, which account shall be:

- (A) for an Authorised Participant, the bank account notified in writing for such purposes by the Authorised Participant to the Issuer, the Margin Loan Provider and the Trustee from time to time; and
- (B) otherwise, the bank account specified in the Redemption Order.

**"Redemption Order"** means a Redemption Order in the form attached to the Operating Procedures Agreement, or such other form as may be acceptable to the Issuer in its sole discretion.

**"Redemption Limit"** means the sum of the Maximum Daily Redemption Limits applicable to the Margin Account Agreement relating to the ETP Securities.

**"Reference Asset"** means a reference asset of the relevant Index or Investment Strategy in respect of a Series of ETP Securities as specified in the Final Terms.

**"Registered Securities"** has the meaning given to it in Condition 2.

**"Registrar"** means, (i) in respect of ETP Securities which are cleared through CREST, Link Registrars Limited or any successor or replacement thereto or any other entity appointed as registrar in accordance with the terms of the Registrar Agreement; or (ii) in respect of ETP Securities which are cleared through Euroclear and / or Clearstream, Luxembourg, Elavon Financial Services DAC or any successor or replacement thereto or any other entity appointed as registrar in accordance with the terms of the Second Agency Agreement.

**"Related Exchange"** means the exchange specified in the Final Terms.

**"Relevant Clearing System"** means (i) Euroclear, (ii) Clearstream, Luxembourg (iii) CREST or (iv) any other recognised clearing system in which ETP Securities of a Series may be cleared.

**"Relevant Currency"** means the currency of denomination of the ETP Securities, as specified in the Final Terms.

**"Relevant Date"** has the meaning given to it in Condition 11.

**"Relevant Provisions"** means, in respect of the Determination Agent, the provisions of the Determination Agency Agreement, the Trust Deed, and the Conditions.

**"Relevant Stock Exchange"** any stock exchange on which ETP Securities of a Series may be listed.

**"RIS"** means a regulated information service for the purposes of giving information relating to the ETP Securities and/or the rules of the Relevant Stock Exchange chosen by the Issuer from time to time, including but not limited to the Regulatory News Service (the **"RNS"**) of the London Stock Exchange.

**"Scheduled Closing Time"** means, in respect of an Exchange or Related Exchange and a Valuation Date, the scheduled weekday closing time of such Exchange or Related Exchange on such Valuation Date, without regard to after hours or any other trading outside of the regular trading session hours.

**"Scheduled Trading Day"** means:

- (A) in respect of any Series of ETP Securities for which the Final Terms specify that 'Multiple Exchange' is not applicable, any day on which each Exchange and each Related Exchange are scheduled to be open for trading for their respective regular trading sessions; and
- (B) in respect of any Index-linked Series of ETP Securities for which the Final Terms specify that 'Multiple Exchange' is applicable, any day on which (i) the Index Sponsor is scheduled to publish the level of the Index; and (ii) the Related Exchange is scheduled to be open for trading for its regular trading session; and
- (C) in respect of any Series of ETP Securities which pursue an Investment Strategy for which the Final Terms specify that 'Multiple Exchange' is applicable, any day on which the Related Exchange is scheduled to be open for trading for its regular trading session.

**"Second Authorised Participant"** means GWM Limited and any successor thereto.

**"Second New York Law Margin Account Security Agreement"** means the New York law governed margin account security agreement dated 6 April 2020 entered into between the Issuer and the Trustee with respect to the Second Margin Account Agreement.

**"Secondary Early Redemption Event"** has the meaning given to it in Condition 8.7.

**"Secured Creditor"** means the Trustee, the Margin Loan Provider and the holders of the ETP Securities.

**"Secured Obligations"** means all present and future obligations of the Issuer to the Secured Creditors under the Programme Documents and each ETP Security.

**"Secured Property"** means the assets that are the subject of the security constituted by the Security Documents.

**"Securities Act"** means The United States Securities Act of 1933 as amended.

**"Security"** means, as the context requires, the security constituted by the Security Documents.

**"Security Document"** means each of the Trust Deed, the Margin Account Security Agreement and any Additional Security Document.

**"Series"** means all ETP Securities having the same ISIN or other similar identifier, including the Initial Tranche and any Further Tranche.

**"Series Issue Date"** means the date of issuance of the Initial Tranche of a Series of ETP Securities, as specified in the relevant Final Terms.

**"Severe Disruption Event"** means any event specified as such in the Final Terms.

**"Share Trustee"** means Monument Trustees Limited, with its registered office at 57 Herbert Lane, Dublin 2, Ireland and CRO number 345558, and any successor thereto.

**"Short Exposure"** means a short inversed leveraged exposure to the Reference Asset.

**"Sub-Custodian"** means any sub-custodian (other than a clearing system) properly appointed by the Custodian for the safe-keeping, administration, clearance and settlement of the Collateral Assets or any of them.

**"Subscription Limit"** means any applicable limit on the Issuer's ability to fund newly issued ETP Securities pursuant to the terms of the Operating Procedures Agreement or the Margin Account Agreement, as may be amended from time to time.

**"Subscription Order"** means a request from an Authorised Participant delivered to the Issuer to issue ETP Securities.

**"Subscription Settlement Date"** means the second Valuation Date after the Subscription Trade Date, provided that such Valuation Date is not a Disrupted Day and that such Valuation Date is both a Currency Business Day and a [CREST Clearing System](#) Business Day.

**"Subscription Suspension Event"** means the delivery by the Issuer of a notice in writing to each Authorised Participant, the Issuing and Paying Agent and the Determination Agent pursuant to the Operating Procedures Agreement stating that with effect from the date specified in such notice subscription of the ETP Securities shall be so suspended.

**"Subscription Trade Date"** means, subject to Condition 9.2, a Valuation Date on which a Subscription Order is determined to be valid and accepted by or on behalf of the Issuer in accordance with the terms of the Operating Procedures Agreement.

**"Successor Index"**, in respect of a Series of ETP Securities, means:

- (A) if a relevant Index is not calculated and announced by the Index Sponsor but is calculated and announced by a successor sponsor acceptable to the Determination Agent, such index; or if the Index is calculated by a replacement sponsor chosen by the Issuer at its discretion and acceptable to the Determination Agent, such index; and
- (B) if a relevant Index is replaced by a successor index or replacement index referred to in (A) above, using, in the determination of the Determination Agent, the same or a substantially similar formula for and method of calculation as used in the calculation of that Index, such replacement index.

**"TARGET Settlement Day"** means a day on which the TARGET2 System is operating.

**"TARGET2 System"** means the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) system or any successor thereto.

**"Tax"** means any tax, duty, assessment, levy, charge or withholding of whatsoever nature imposed, levied, collected, withheld or assessed by any Authority (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

**"Termination"** means, in respect of the Margin Account Agreement, the total or partial close-out of the Margin Account Agreement in accordance with its terms.

**"Threshold Event Date"** has the meaning given to it in Condition 8.5.

~~**"Trading Business Day"** means any day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments in Dublin and New York.~~

**"Tranche"** means, in relation to a Series of ETP Securities issued on any date, the ETP Securities that are issued on the same Issue Date with the same Principal Amount.

**"Trading Disruption"** means any suspension of or limitation imposed on trading by the relevant Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or Related Exchange or otherwise (i) relating to the Reference Asset, or (ii) in futures or options contracts relating to the applicable Series of ETP Securities on any relevant Related Exchange.

**"Transfer Agent"** means any entity as may be appointed from time to time as transfer agent in accordance with the terms of the Agency Agreement and any successor or replacement thereto.

**"Uncertificated Registered Securities"** means ETP Securities issued in dematerialised uncertificated registered form.

**"Uncertificated Regulations"** means the Uncertificated Securities Regulations 2001 and the Irish Companies Act 1990 (Uncertificated Securities) Regulations 1996 (S.I. No. 68 of 1996), as amended by the Irish Companies Act 1990 (Uncertificated Securities) (Amendment) Regulations 2005 (S.I. No. 693 of 2005) and such other regulations made under section 1086 of the Irish Companies Act 2014 having force within Ireland as are applicable to Euroclear UK & Ireland Limited (formerly known as CRESTCo Limited) and/or the CREST "relevant system" (as defined in such regulations) and are from time to time in force.

**"Unscheduled Rebalance"** means an unscheduled rebalance occurring on a Valuation Date on which the rebalancing mechanism built in the relevant Index or Investment Strategy in respect of a Series of ETP Securities has been triggered by a change in the price of the corresponding Reference Asset of such Index or Investment Strategy by more than the relevant trigger level for the Index or Investment Strategy in accordance with its methodology.

**"Valuation Date"**, (i) in respect of any Index-linked Series means each ~~Index Business Day which is also a TradingExchange~~ Business Day and, in respect of a Subscription Order or a Redemption Order, each ~~TradingExchange~~ Business Day; and (ii) in respect of any Series which pursues an Investment Strategy, each ~~TradingExchange~~ Business Day and in respect of a Subscription Order or a Redemption Order, each ~~TradingExchange~~ Business Day.

**"Valuation Time"** means:

- (A) in respect of a Series of ETP Securities for which the Final Terms specify that 'Multiple Exchange' is not applicable, the Scheduled Closing Time on the Exchange on the relevant Valuation Date; and
- (B) in respect of Index-linked Series where the Final Terms specify that 'Multiple Exchange' is applicable:
  - 1. for the purposes of determining whether a Market Disruption Event has occurred (i) in respect of the Reference Asset, the Scheduled Closing Time on the Exchange, and (ii) in respect of any options contracts of future contracts on the Index, the close of trading on the Related Exchange; and
  - 2. in all other circumstances, the time at which the official Index Level is calculated and published by the Index Sponsor; and
- (C) in respect of any Series of ETP Securities which pursue an Investment Strategy, where the Final Terms specify that "Multiple Exchange" is applicable, the Scheduled Closing Time of the Related Exchange.

**"Value Adjustments"** means cash lending revenues and other revenues on collateral in respect of a Series of ETP Securities.

## 1.2 Interpretation

All capitalised terms used but not defined in these Conditions will have the meanings given to them in the Master Trust Deed, the Trust Deed and/or the Master Definitions Schedule.

## 2. Form and Title

The ETP Securities may be issued in bearer form (including in new global note form ("**NGN**") and in classic global note form ("**CGN**") and serially numbered ("**Bearer Securities**", which expression includes ETP Securities which are specified to be Exchangeable Bearer Securities), in registered form ("**Registered Securities**"), in bearer form exchangeable for Registered Securities ("**Exchangeable Bearer Securities**"), or in dematerialised uncertificated registered form which shall not be exchangeable for Bearer Securities ("**Uncertificated Registered Securities**"), in each case in the Denomination(s) and Relevant Currency specified in the Final Terms. If it is stated in the Final Terms that the form of some or all of the ETP Securities is "Bearer", such ETP Securities are Bearer Securities. If it is so stated that the form of some or all of the ETP Securities is "Exchangeable Bearer", such ETP Securities are Exchangeable Bearer Securities. If it is so stated that the form of some or all of the ETP Securities is "Registered", such ETP Securities are Registered Securities. If it is so stated that the form of some or all of the ETP Securities is "Uncertificated Registered", such ETP Securities are Uncertificated Registered Securities. Unless otherwise stated in the Final Terms, the form of all of the ETP Securities of a particular Series on issue will be the same.

In respect of Bearer Securities relating to a Series to be issued in global form, such Bearer Securities, will (a) if the Bearer Securities are intended to be issued in NGN form, as stated in the Final Terms relating to such Series, be delivered on or prior to the original issue date to a Common Safekeeper for Euroclear and Clearstream, Luxembourg; and (b) if the Bearer Securities are intended to be issued in CGN form, as stated in the Final Terms relating to such Series be delivered on or prior to the original issue date to a common depository for Euroclear and Clearstream, Luxembourg.

In respect of Registered Securities relating to a Series to be issued in global form, the Global Registered Certificate in respect of such Registered Securities will be registered in the name of a nominee for, and shall be deposited on its issue date with a common depository on behalf of, Euroclear and Clearstream, Luxembourg. [Registered Securities issued under the New Safekeeping Structure shall be deposited with a Common Safekeeper for Euroclear and Clearstream, Luxembourg](#)

All Registered Securities of the same Series shall have the same Denomination. Where Exchangeable Bearer Securities are issued, the Registered Securities for which they are exchangeable shall have the same Denomination as the lowest denomination of Exchangeable Bearer Securities. Bearer Securities shall not be exchangeable for Uncertificated Registered Securities.

Title to the Bearer Securities shall pass by delivery. Title to the Registered Securities shall pass by registration in the register (the "**Register**") which the Issuer shall procure to be kept by the Registrar in accordance with the provisions of the Agency Agreement. Uncertificated Registered Securities shall be held in uncertificated registered form in accordance with the Uncertificated Regulations and as such are dematerialised and not constituted by any physical document of title. Uncertificated Registered Securities shall be cleared through CREST and are participating securities for the purposes of the Uncertificated Regulations. Title to the Uncertificated Registered Securities is recorded on the Register and shall pass by registration in the Register. Notwithstanding anything to the contrary in the Conditions, for so long as the Uncertificated Registered Securities are participating securities: (i) the Register shall be maintained in Ireland and at all times outside of the

United Kingdom, (ii) the Uncertificated Registered Securities may be issued in uncertificated form in accordance with and subject as provided in the Uncertificated Regulations and (iii) for the avoidance of doubt, the Conditions in respect of the Uncertificated Registered Securities shall remain applicable notwithstanding that they are not endorsed on any certificate or document of title.

Except as ordered by a court of competent jurisdiction or as required by law, the holder (as defined below) of any ETP Security shall be deemed to be and may be treated as the absolute owner of such ETP Security for the purpose of receiving payment thereof or on account thereof and for all other purposes, whether or not such ETP Security shall be overdue and notwithstanding any notice of ownership, theft or loss thereof or any writing thereon made by anyone and no person will be liable for so treating the holder.

3. **Exchanges of Exchangeable Bearer Securities and transfers of Registered Securities and Uncertified Registered Securities**

3.1 **Exchange of Bearer Securities and Exchangeable Bearer Securities**

The Global Bearer Security relating to Bearer Securities is exchangeable (free of charge to the holder) on or after the Exchange Date in whole but not in part for Definitive Securities if the Global Bearer Security is held on behalf of a Relevant Clearing System and the Relevant Clearing System is closed for business for a continuous period of 14 calendar days (other than by reason of holidays, statutory or otherwise) or announces an intention permanently to cease business or does, in fact, do so.

"**Exchange Date**" means a day falling not less than 60 calendar days after the date on which the notice requiring exchange is given and on which banks are open for business in the city in which the specified office of the Issuing and Paying Agent is located.

Any such exchange may be effected on or after an Exchange Date by the holder of the Global Bearer Security surrendering the Global Bearer Security to or to the order of the Issuing and Paying Agent. In exchange for the Global Bearer Security, the Issuer shall deliver, or procure the delivery of, duly executed and authenticated Definitive Securities in an aggregate number equal to the number of ETP Securities represented by the Global Bearer Security submitted for exchange, security printed in accordance substantially in the form required under the Trust Deed.

Subject as provided in Condition 3.5, each Exchangeable Bearer Security may be exchanged in whole but not in part for the same aggregate principal amount of Registered Securities represented by an Individual Certificate at the request in writing of the relevant ETP Securityholder and upon surrender of each Exchangeable Bearer Security to be exchanged at the specified office of the Registrar. Registered Securities may not be exchanged for Bearer Securities and Bearer Securities of one Denomination may not be exchanged for Bearer Securities of another Denomination. Bearer Securities which are not Exchangeable Bearer Securities may not be exchanged for Registered Securities.

3.2 **Transfer of Registered Securities in definitive form**

One or more Registered Securities may be transferred upon the surrender (at the specified office of the Registrar) of the Individual Certificate representing such Registered Securities to be transferred, together with the form of transfer endorsed on such Individual Certificate, (or another form of transfer substantially in the same form and containing the same representations and certifications (if any), unless otherwise agreed by the Issuer), duly completed and executed and any other evidence as the Registrar may reasonably require. In the case of a transfer of part only of a holding of Registered Securities represented by one Individual Certificate, a new Individual Certificate shall be issued to the transferee in respect of the part transferred and a further new Individual Certificate in respect of the balance of the holding not transferred shall be issued to the transferor. The regulations may be changed by the Issuer, with the prior written approval of the

Registrar and the ETP Securityholders. A copy of the current regulations will be made available by the Registrar to any ETP Securityholder upon request.

### **3.3 Exercise of options or partial redemption in respect of Registered Securities**

In the case of an exercise of an Issuer's or an ETP Securityholder's option in respect of, or a redemption of a part of, a holding of Registered Securities represented by a single Individual Certificate, a new Individual Certificate shall be issued to the holder in respect of the balance of the holding not subject to the exercise of such option or, as the case may be, redeemed. New Individual Certificates shall only be issued against surrender of the existing Individual Certificates to the Registrar.

### **3.4 Delivery of new Individual Certificates**

Each new Individual Certificate to be issued pursuant to Conditions 3.2 to 3.3 will be available for delivery within five business days of surrender of the relevant Exchangeable Bearer Security or, as the case may be, the relevant Individual Certificate and, if applicable, receipt of the relevant request for exchange, form of transfer or notice of exercise together with such other evidence (if any) as may be required pursuant to the relevant Condition. Delivery of new Individual Certificate(s) shall be made at the specified office of the Registrar to whom surrender of such Individual Certificate and, if applicable, delivery of such request, form of transfer or notice of exercise shall have been made or, at the option of the holder making such delivery and surrender as aforesaid and as specified in the relevant request for exchange, form of transfer, notice of exercise or otherwise in writing, shall be mailed at the risk of the holder entitled to the new Individual Certificate to such address as may be so specified. In this Condition 3.4 "**business day**" means a day, other than a Saturday or Sunday, on which banks are open for business in the place of the specified office of the Registrar.

### **3.5 Exchange and transfer free of charge**

Exchange and transfer of ETP Securities on registration or transfer will be effected without charge by or on behalf of the Issuer, the Registrar, but upon payment by the relevant ETP Securityholder (or the giving by the relevant ETP Securityholder of such indemnity as the Registrar may require in respect thereof) of any tax or other governmental charges which may be imposed in relation to it.

### **3.6 Closed periods**

No ETP Securityholder may require the transfer of a Registered Security to be registered or an Exchangeable Bearer Security to be exchanged for one or more Registered Security(s) (i) during the period of 15 calendar days ending on the due date for redemption of that ETP Security, (ii) during the period of 15 calendar days prior to any date on which ETP Securities may be redeemed by Optional Redemption pursuant to Condition 8.2 or by the Issuer at its option pursuant to Condition 8.6, (iii) after any such ETP Security has been drawn for redemption in whole or in part or (iv) during the period of seven days ending on (and including) any Record Date. An Exchangeable Bearer Security called for redemption may, however, be exchanged for one or more Registered Security(s) in respect of which the Individual Certificate is simultaneously surrendered not later than any Record Date.

### **3.7 Exchange of Uncertificated Registered Securities**

All transactions in respect of Uncertificated Registered Securities (including, without limitation, transfers of the ETP Securities) in the open market or otherwise must be effected through an account with EUI. All transfers of the ETP Securities shall be subject to and made in accordance with the Uncertificated Regulations and the rules, procedures and practices in effect of the Registrar, the CREST Settlement Agent and CREST. The Uncertificated Regulations and such rules, procedures and practices may change from time to time. No provision of the Conditions shall (notwithstanding anything to the contrary herein) apply or have effect to the extent that it is in any

respect inconsistent with: (i) the holding of title to the ETP Securities in uncertificated form, (ii) the transfer of title to Uncertificated Registered Securities by means of registration in the Register or (iii) the Uncertificated Regulations.

If at any time the ETP Securities cease to be held in uncertificated form and/or accepted for clearance through CREST, or notice is received by or on behalf of the Issuer that the ETP Securities will cease to be held in uncertificated form and cleared through CREST and/or CREST is closed for business for a continuous period of 14 calendar days (other than by reason of holidays, statutory or otherwise) or CREST announces an intention permanently to cease business or does in fact do so, the ETP Securities shall continue to be in registered form and the Issuer, the Registrar, the Issuing and Paying Agent and any other relevant Programme Party may agree such procedures as they determine necessary in relation to the transfer of Uncertificated Registered Securities and shall as soon as reasonably practicable give notice thereof to the ETP Securityholders in accordance with Condition 17.

The provisions of the second paragraph of this Condition 3.7 shall apply equally in the case that a holder ceases to be a CREST member, but for such purposes only the affected holder will need to be notified of the procedures adopted.

If the rules and procedures of the Registrar and/or for so long as the Uncertificated Registered Securities are held in CREST the rules and procedures of CREST and the CREST Settlement Agent include any closed period in which no ETP Securityholder may require the transfer of an ETP Security to be registered in the Register, such closed periods shall apply to Uncertificated Registered Securities. Details of any such closed period are available from the Registrar.

4. **Constitution and status**

Each Series of ETP Securities is constituted by the applicable Trust Deed and secured by the applicable Security Documents. The ETP Securities of each Series are secured, limited recourse debt obligations of the Issuer, at all times ranking pari passu and without any preference among themselves, secured in the manner described in Condition 6 and recourse in respect of which is limited in the manner described in Condition 6.6 and Condition 13.

5. **ETP Security Value**

The “**ETP Security Value**” in respect of any Valuation Date (which is not a Disrupted Day and on which an Unscheduled Rebalance does not occur) shall be calculated as follows:

- (i) the ETP Security Value on the immediately preceding Valuation Date; adjusted by
- (ii) the change in the value of the Collateral Assets in respect of a Series of ETP Securities since such preceding Valuation Date; minus
- (iii) the applicable Funding and Brokerage Fees; minus
- (iv) the Arranger Fee, plus
- (v) any Value Adjustments

provided that on the Issue Date of each Tranche, the ETP Security Value will be equal to the Issue Price of the ETP Security. Unless otherwise specified, amounts and values for each Valuation Date shall be calculated as at the Valuation Time for such Valuation Date.



6. **Security**

6.1 **Security**

(A) The Security in respect of the ETP Securities shall be constituted by the Security Documents, as described below. Additional Security Documents may be entered into in respect of particular Series if required by the Trustee.

(1) Pursuant to the Trust Deed, the Secured Obligations of the Issuer shall be secured by:

(a) an assignment by way of security of all of the Issuer's rights, title, interest and benefit present and future in, to and under the Programme Documents to the extent that they relate to the ETP Securities; and

(b) a first fixed charge over (i) all sums held now or in the future by or on behalf of the Issuer (including, without limitation, by the Issuing and Paying Agent and/or the Registrar and/or the CREST Settlement Agent (in respect of Series of ETP Securities which are cleared through CREST) to meet payments due in respect of the obligations and duties of the Issuer under the Security Documents and the ETP Securities, (ii) the Collateral Assets and any sums of money, securities, financial instruments or other property received or receivable now or in the future by or on behalf of the Issuer under the Margin Account Agreement and the Portfolio Administration Agreement and (iii) all of the Issuer's rights as against the Margin Loan Provider, the Custodian (in respect of Series to which the First Portfolio Administration Agreement is stated in the Final Terms to be applicable) and/or any Sub-Custodian (in respect of Series to which the First Portfolio Administration Agreement is stated in the Final Terms to be applicable) in respect of any sum or property now or in the future standing to the credit of the relevant accounts of the Issuer with the Margin Loan Provider, the Custodian or of the Custodian (on behalf of the Issuer) with any Sub-Custodian relating to the ETP Securities,

in each case, to the extent that they relate to the ETP Securities, in favour of the Trustee for its benefit and for the benefit of the Secured Creditors.

(2) In respect of the First Margin Account Agreement, the Issuer and the Trustee have entered into the English Law Margin Account Security Agreement, and the First New York Law Margin Account Security Agreement.

In respect of any Series of ETP Securities to which the First Margin Account Agreement is specified in the relevant Final Terms to be applicable, pursuant to the English Law Margin Account Security Agreement, the Secured Obligations of the Issuer shall be secured by:

(a) assigning absolutely to the Trustee by way of security all the Issuer's rights, title, interest and benefit present and future in, to and under the First Margin Account Agreement to the extent that they relate to such Series of ETP Securities to which the First Margin Account Agreement applies;

(b) charging in favour of the Trustee all of the Issuer's present and future right, title, interest in and to all of the Issuer's rights as against the Margin Loan Provider and the Custodian under the First 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 such Series of ETP Securities to which the First Margin Account Agreement applies; and

- (c) charging in favour of the Trustee all of the Issuer's present and future right, title, interest in and to all of the Collateral Assets held in the Margin Account to the extent that they relate to such Series of ETP Securities to which the First Margin Account Agreement applies.

In respect of any Series of ETP Securities to which the First Margin Account Agreement is specified in the relevant Final Terms to be applicable, pursuant to the First New York Law Margin Account Security Agreement, the Secured Obligations of the Issuer shall be secured by:

- (a) granting in favour of the Trustee a continuing lien on and security interest in all of the Issuer's rights as against the Margin Loan Provider and the Custodian under the First 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 such Series of ETP Securities to which the First Margin Account Agreement applies; and
  - (b) granting a continuing lien on and security interest in favour of the Trustee in all of the Issuer's 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 such Series of ETP Securities to which the First Margin Account Agreement applies.
- (3) With respect to the Second Margin Account Agreement, the Issuer and the Trustee have entered into a Second New York Law Margin Account Security Agreement. In respect of any Series of ETP Securities to which the Second Margin Account Agreement is specified in the relevant Final Terms to be applicable, pursuant to the Second New York Law Margin Account Security Agreement the Secured Obligations of the Issuer shall be secured by:
- (a) assigning to the Trustee by way of security all the Issuer's rights, title, interest and benefit present and future in, to and under the Second Margin Account Agreement to the extent that they relate to such Series of ETP Securities to which the Second Margin Account Agreement applies; and
  - (b) granting a continuing lien on and security interest in favour of the Trustee in all of the Issuer's rights as against the Margin Loan Provider under the Second 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 to the extent that they relate to such Series of ETP Securities to which the Second Margin Account Agreement applies; and
  - (c) granting a continuing lien on and security interest in favour of the Trustee in all of the Issuer's 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 such Series of ETP Securities to which the Second Margin Account Agreement applies.

- (B) The Security created by the Security Documents in respect of the ETP Securities is granted to the Trustee as continuing security for the Secured Obligations. In accordance with the

Security Documents, prior to any enforcement of the Security, the Trustee will be deemed to release from such Security without the need for any notice or other formalities:

- (1) sums held by the Issuing and Paying Agent, the Registrar, the CREST Settlement Agent, the Margin Loan Provider and/or the Custodian, as applicable, to the extent required for payment of any sum in respect of the ETP Securities and/or under the Programme Documents which is due and payable to be duly made (which for the avoidance of doubt shall include, without limitation, amounts payable in respect of Principal to the ETP Securityholders in accordance with these Conditions, amounts payable to the Margin Loan Provider under the Margin Account Agreement and Optional Redemption Amounts in respect of the ETP Securities payable to any Authorised Participant by the Issuer);
- (2) any part of the Secured Property to the extent required to be delivered to or to the order of the Custodian (in respect of Series to which the First Portfolio Administration Agreement is stated in the Final Terms to be applicable) or the Margin Loan Provider pursuant to the terms of the Margin Account Agreement;
- (3) any part of the Secured Property to the extent required to facilitate the acquisition or sale of any Collateral Assets in accordance with the terms of the Conditions and the Portfolio Administration Agreement; and
- (4) any part of the Secured Property to the extent required to comply with and subject to the provisions of Conditions 6.6 and 6.7.

## 6.2 Money received by the Trustee prior to enforcement of Security

- (A) Pursuant to the terms of the Trust Deed, the Issuer agrees, on any date on which a payment of Principal under these Conditions in respect of any ETP Securities becomes due, unconditionally to pay the Trustee (or to the order of the Trustee) in same day cleared funds, in accordance with the Trust Deed, the Final Redemption Amount, the Optional Redemption Amount or the Mandatory Redemption Amount, as applicable, in respect of the ETP Securities which is due and payable on that date.

Notwithstanding anything to the contrary in these Conditions or the Trust Deed, (1) payment of Principal due under the ETP Securities pursuant to the Conditions made to the Issuing and Paying Agent and/or the Registrar and/or the CREST Settlement Agent ([in respect of Series of ETP Securities which are cleared through CREST](#)) (as the case may be) as provided in the Agency Agreement shall, to that extent, satisfy the Issuer's obligation to make payments of Principal in respect of the ETP Securities to the Trustee for the account of the ETP Securityholders except to the extent that there is failure by the Issuing and Paying Agent and/or the Registrar and/or the CREST Settlement Agent ([in respect of Series of ETP Securities which are cleared through CREST](#)) (as the case may be) to pass such payment to the relevant ETP Securityholders (whether via payment through the Relevant Clearing System or otherwise) and (2) a payment of Principal made after the due date or as a result of the ETP Securities becoming repayable following an Event of Default or the occurrence of a Mandatory Redemption Event shall be deemed to have been made when the full amount due has been received by the Issuing and Paying Agent and/or the Registrar and/or the CREST Settlement Agent ([in respect of Series of ETP Securities which are cleared through CREST](#)) (as the case may be) or the Trustee and notice to such effect has been given by the Issuing and Paying Agent to the ETP Securityholders, except to the extent that there is failure by the Issuing and Paying Agent and/or the Registrar and/or the CREST Settlement Agent ([in respect of Series of ETP Securities which are cleared through CREST](#)) (as the case may be) to pass such payment to the relevant ETP Securityholders (whether via payment through the Relevant Clearing System or otherwise). Under the terms of the Trust Deed, the Trustee holds the benefit of this covenant on trust for itself and the ETP Securityholders according to their respective interests.

- (B) Save for any moneys received in connection with the realisation or enforcement of all or part of the Security, all moneys received by or on behalf of the Trustee in relation to the Issuer's covenant to pay Principal pursuant to Condition 6.2(A) will, despite any appropriation of all or part of them by the Issuer, be held by the Trustee on trust to apply them:
- (1) first, in payment or satisfaction of the fees, costs, charges, expenses and liabilities incurred by or payable to the Trustee under or pursuant to the relevant Security Documents (including, without limitation, any Taxes (other than any income, corporation or similar tax in respect of the Trustee's remuneration) required to be paid by the Trustee in connection with the performance of its obligations under the relevant Security Documents and the Trustee's remuneration);
  - (2) secondly, in payment of any amounts owing to the Margin Loan Provider under the Margin Account Agreement, including margin interest, securities lending and brokerage fees;
  - (3) thirdly, in payment of any amounts owing to the Arranger in respect of the Arranger Fee;
  - (4) fourthly, in payment of any amounts owing to the holders of the relevant ETP Securities *pari passu* and rateably; and
  - (5) fifthly, in payment of any balance to the Issuer for itself.

If the Trustee holds any moneys in respect of ETP Securities that have become void or in respect of which claims have become prescribed, the Trustee will hold them on trust as described above.

### **6.3 Enforcement of Security constituted by the Security Documents**

The Security constituted by the Security Documents in respect of the ETP Securities shall become enforceable upon the occurrence of an Event of Default pursuant to Condition 12 below.

### **6.4 Realisation of Security constituted by the Security Documents**

At any time after the Security constituted by the Security Documents has become enforceable, the Trustee may, at its discretion, and shall, if so directed in writing by holders of at least a majority of the ETP Securities then outstanding or by an Extraordinary Resolution of the ETP Securityholders (a copy of which has been provided to the Trustee), in each case subject to its having been pre-funded and/or secured and/or indemnified to its satisfaction by the ETP Securityholders in accordance with the Trust Deed, enforce the Security constituted by the Security Documents.

To do this, the Trustee may, at its discretion, (i) enforce and/or terminate any relevant Programme Document relating to the ETP Securities in accordance with its or their terms, and/or take action against the relevant Obligor(s) and/or (ii) take possession of and/or realise all or part of the assets over which the Security constituted by the Security Documents shall have become enforceable and may in its discretion, sell, call in, collect and convert into money all or part of such assets, in such manner, at such time and on such terms as it thinks fit, in each case without any liability as to the consequence of such action and without having regard to the effect of such action on individual ETP Securityholders.

The Trustee may, in writing, appoint a receiver or receivers over all or part of the assets over which the Security constituted by the Security Documents shall have become enforceable and may remove any receiver so appointed and appoint another in its place. No delay or waiver of the right to exercise these powers shall prejudice their future exercise.

Neither the Trustee nor any receiver appointed by it or any attorney or agent of the Trustee will, by reason of taking possession of any assets or any other reason and whether or not as mortgagee in possession, be liable to account for anything except actual receipts or be liable for any loss or damage arising from the realisation of such assets or from any act or omission to such assets or otherwise unless such loss or damage shall be caused by its own fraud, gross negligence or wilful default.

The Trustee shall not be required to take any action in relation to the Security constituted by the Security Documents which may (i) be illegal or contrary to any applicable law or regulation or (ii) cause it to expend or risk its own funds or otherwise incur any liability (including any personal liability) in the performance of its duties or in the exercise of any of its rights, powers and discretions, without first being indemnified and/or secured and/or prefunded to its satisfaction.

#### **6.5 Application of proceeds of enforcement of Security**

Pursuant to the terms of the Security Documents, following enforcement of the security the Trustee will apply the proceeds derived from the realisation of the assets that are the subject of the security constituted by the relevant Security Documents (whether by way of liquidation or enforcement and after taking account of any Taxes incurred, withheld or deducted by or on behalf of the Issuer) as follows:

- (A) first, in payment or satisfaction of all fees, costs, charges, expenses, liabilities and other amounts properly incurred by or payable in respect of the ETP Securities to the Trustee or any receiver under or pursuant to the relevant Security Documents (which shall include, without limitation, any Taxes required to be paid by the Trustee (other than any income, corporation or similar Tax in respect of the Trustee's remuneration), the costs of enforcing or realising all or some of the Security constituted by the Security Documents and the Trustee's remuneration);
- (B) secondly, in payment of any amounts owing to the Margin Loan Provider under the Margin Account Agreement, including margin interest securities lending and brokerage fees;
- (C) thirdly, in payment of any amounts owing to the Arranger in respect of the Arranger Fee;
- (D) fourthly, in payment of any amounts owing to the ETP Securityholders *pari passu* and rateably; and
- (E) fifthly, in payment of any balance to the Issuer for itself.

#### **6.6 Shortfall after application of proceeds; Limited recourse and non-petition**

In respect of any claim against the Issuer in relation to the ETP Securities, with the exception of the Margin Loan Provider with respect to the Second Margin Account Agreement; the Programme Parties and the ETP Securityholders shall have recourse only to the Secured Property in respect of such ETP Securities, 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 this Condition 6 and the Security Documents, as applicable, 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, with the exception of the Margin Loan Provider with respect to the Second Margin Account Agreement, none of the Programme Parties, the ETP Securityholders 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.

With the exception of the Margin Loan Provider with respect to the Second Margin Account Agreement, none of the Programme Parties or the ETP Securityholders 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 ETP Securities).

The Second Margin Account Agreement does not contain limited recourse provisions with respect to the liabilities of the Issuer. If following realisation in full of the Secured Property (whether by way of liquidation or enforcement) and application of available cash in accordance with the applicable orders of priority and the Trust Deed, a claim remains outstanding against the Issuer by the Margin Loan Provider, such claim may be made against assets attributable to other outstanding Series of ETP Securities on a pro rata basis. The Broker Dealer of Record, however, has agreed to indemnify the Issuer against any loss, cost, claim, action, demand or expense which the Issuer may incur as a result of any such claims by the Margin Loan Provider.

The provisions of this Condition 6.6 shall survive notwithstanding any redemption of the ETP Securities or the termination or expiration of any Programme Document.

#### **6.7 Issuer's rights as beneficial owner of Secured Property**

Notwithstanding Condition 14.1, at any time before the Security constituted by the Security Documents becomes enforceable, the Issuer may, without the sanction of an Extraordinary Resolution and without the prior written consent of the Trustee:

- (A) take such action in relation to the Secured Property relating to the ETP Securities as may be required by the Programme Documents; and
- (B) exercise any rights incidental to the ownership of the assets which are the subject of the Security constituted by the Security Documents which are exercisable by the Issuer and, in particular (but, without limitation, and without responsibility for their exercise), any voting rights in respect of such property and all rights to enforce any such ownership interests in respect of such property,

provided that the Issuer shall not exercise any rights with respect to such assets if it is directed to the contrary by the Trustee or by an Extraordinary Resolution and, if such direction is given, the Issuer shall act only in accordance with such direction.

### **7. Restrictions**

So long as any of the ETP Securities remain outstanding, the Issuer shall not, without the prior written consent of the Trustee, the Portfolio Administrator and (other than in respect of paragraphs (B), (C) and (F)), the Margin Loan Provider:

- (A) engage in any business activities, save that the Issuer may without consent engage in any of the following activities (or any other business activity which relates to or is incidental thereto):
  - (1) issue, enter into, amend, redeem, exchange or repurchase and cancel or reissue or resell all or some only of the ETP Securities of any Series under the Programme as may be provided in these Conditions and the Trust Deed and the Programme Documents and in connection therewith enter into or amend any Programme Documents accordingly;

- (2) acquire and own rights, property or other assets which are to comprise Secured Property for a Series of ETP Securities issued under the Programme so as to enable it to discharge its obligations under such Series, and any relevant Programme Document relating to such Series;
  - (3) perform its respective obligations under any ETP Securities issued under the Programme, and any relevant Programme Document entered into by it in connection with such Series, and any agreements incidental to the granting of Security relating to any such Series of ETP Securities or incidental to the issue and constitution of any Series of ETP Securities issued under the Programme;
  - (4) engage in any activity in relation to the Secured Property, the Collateral Assets, the Margin Account Agreement or any other Programme Document contemplated or permitted by the Conditions, the Margin Account Agreement or such Programme Document relating to any Series of ETP Securities;
  - (5) subject to as provided in the Trust Deed and in the Conditions relating to any Series of ETP Securities enforce any of its rights whether under the Trust Deed, any other Programme Document or otherwise under any agreement entered into in relation to any Series of ETP Securities or any Secured Property relating to any such Series;
  - (6) issue unsecured debt securities, on the conditions that (i) the proceeds of such debt securities shall be used by the Issuer to disburse loans to the holder(s) of such debt securities; and (ii) the holder of such debt securities shall have no right to enforce the obligations of the Issuer thereunder; and
  - (7) perform any other act incidental to or necessary in connection with any of the above (which shall include, without limitation, the appointment of auditors and any other administrative or management functions necessary to maintain the Issuer and/or to keep it operating and/or to comply with any laws, regulations or rules applicable to it);
- (B) cause or permit the Margin Account Agreement, the Portfolio Administration Agreement or the terms of the Security granted under the Security Documents and the order of priority specified in the Conditions and the Trust Deed, as applicable, to be amended, terminated or discharged (other than as contemplated or permitted by the Trust Deed, the Margin Account Agreement, the Portfolio Administration Agreement and/or the Conditions relating to such Series of ETP Securities);
- (C) release any party to the Margin Account Agreement, the Trust Deed, the Portfolio Administration Agreement or any other relevant Programme Document relating to a Series of ETP Securities from any existing obligations thereunder (other than as contemplated or permitted by the Trust Deed, Margin Account Agreement, the Portfolio Administration Agreement, any relevant Programme Document and/or the Conditions relating to such Series of ETP Securities);
- (D) have any subsidiaries;
- (E) sell, transfer or otherwise dispose of any assets that are the subject of the Security constituted by the Security Documents or any other part of the Secured Property in respect of any Series of ETP Securities or any right or interest therein or thereto or create or allow to exist any charge, lien or other encumbrance over such Secured Property (to the extent it relates to the Issuer) except in accordance with the Conditions of the relevant ETP Securities of any such Series, the Margin Account Agreement, the Portfolio Administration Agreement, the relevant Agency Agreement, the Trust Deed for any such

Series and any other Programme Document relating to any such Series as may be applicable, including liens of any Margin Loan Providers, Custodians or Sub-Custodians;

- (F) consent to any variation of, or exercise any powers or consent or waiver pursuant to, the terms of the Margin Account Agreement, the Portfolio Administration Agreement, the Conditions, the Trust Deed or any other Programme Document relating to any Series of ETP Securities (other than as contemplated or permitted by the Conditions and the relevant Programme Documents);
- (G) consolidate or merge with any other person or convey or transfer its properties or assets substantially as an entirety to any person (other than as contemplated by the Trust Deed and the Conditions for any Series of ETP Securities);
- (H) have any employees (provided this shall not prevent the appointment of the directors);
- (I) issue any shares (other than such shares in the capital of the Issuer as were issued at the time of its incorporation and which are held by the Share Trustee or its nominee) or make any distribution to its shareholders;
- (J) declare any dividends;
- (K) open or have any interest in any account with a bank or financial institution unless such account (i) relates to a Series of ETP Securities, the Portfolio Administration Agreement, the Margin Account Agreement or any Secured Property relating to a Series of ETP Securities or any party thereto and the Issuer's interest in such account is simultaneously charged in favour of the Trustee so as to form part of the relevant Secured Property relating to such Series of ETP Securities, or (ii) is opened in connection with the administration and management of the Issuer and only moneys necessary for that purpose are credited to it;
- (L) purchase, own, or otherwise acquire any real property (including office premises or like facilities);
- (M) guarantee, act as surety for or become obligated for the debts of any other entity or person or enter into any agreement with any other entity or person whereby it agrees to satisfy the obligations of such entity or person or any other entity or person;
- (N) acquire any securities or shareholdings whatsoever from its shareholders or enter into any agreements whereby it would be acquiring the obligations and/or liabilities of its shareholders;
- (O) except as contemplated by any relevant Programme Document, the Conditions relating to a Series of ETP Securities, and/or the agreements contemplated by paragraph (A)(6) above, advance or lend any of its moneys or assets, including, but not limited to, the rights, property or other assets comprising the Secured Property for any such Series of ETP Securities, to any other entity or person;
- (P) subject as provided in paragraph (A) above, incur any other indebtedness for borrowed moneys, other than (subject to Conditions 6 and 16) issuing further ETP Securities under the Programme (which may or may not form a single Series with the ETP Securities of any Series and may or may not be guaranteed by a third party) and creating or incurring further obligations relating to such ETP Securities, provided that:
  - (1) if such further ETP Securities are not to form a single Series with any other Series of ETP Securities, such further ETP Securities and obligations are secured on assets of the Issuer other than (i) the assets which are the subject of the Security



constituted by the Security Documents relating to any other Series of ETP Securities and (ii) the Issuer's share capital;

- (2) such further ETP Securities and obligations are secured *pari passu* upon the assets which are the subject of the Security constituted by the Security Documents relating to the Series of ETP Securities with which such ETP Securities are to form a single Series; and
- (3) in connection with such issue of further ETP Securities, the Margin Loan Provider agrees to any increase of the economic exposure under the Margin Account Agreement which is necessary to facilitate the issue of such further ETP Securities.

provided that the Issuer shall not take any action (even where the prior written consent of the Trustee, the Portfolio Administrator and the Margin Loan Provider is obtained) if such action is, in the opinion of the Issuer, inconsistent with the objects of the Issuer as specified in its memorandum and articles of association.

## 8. **Redemption**

### 8.1 **Final redemption**

Unless previously redeemed in whole as provided below, each ETP Security shall become due and payable on its Final Redemption Settlement Date at its Final Redemption Amount.

### 8.2 **Optional Redemption**

- (A) An ETP Securityholder which is also an Authorised Participant may (subject as provided herein) on any Valuation Date require the Issuer to redeem all or part of its holding of ETP Securities at the Optional Redemption Amount by submitting to the Issuer a valid Redemption Order in accordance with the relevant Authorised Participant Agreement and the Operating Procedures Agreement.
- (B) An ETP Securityholder which is not also an Authorised Participant may (subject as provided herein) on any Valuation Date require the Issuer to redeem all or any part of its holding of such ETP Securities at the Optional Redemption Amount by submitting to the Issuer a valid Redemption Order only if the Issuer has notified the ETP Securityholders in accordance with Condition 17 in respect of any Valuation Date that redemption requests from ETP Securityholders which are not Authorised Participants will be permitted and no later notice to the contrary has yet been delivered. Any such announcement may be general or subject to conditions, and any such Redemption Order which is not in accordance with any such conditions shall not be valid.
- (C) Any ETP Security that is subject to Optional Redemption in accordance with this Condition 8.2 as a result of the delivery of a Redemption Order, shall become due and payable on the relevant Optional Redemption Settlement Date at its Optional Redemption Amount.

### 8.3 **Redemption Orders**

- (A) A Redemption Order shall only be valid if:
  - (1) other than in the limited circumstances set out in Condition 8.2(B), it is delivered

by an ETP Securityholder that is an Authorised Participant;

- (2) it specifies the number and Series of any ETP Securities to be redeemed;
  - (3) it is received by the Issuer between 8.00 a.m. (Dublin time) and the Notice Deadline on any Valuation Date;
  - (4) it specifies the Redemption Account into which the Optional Redemption Amount shall be payable in respect of any ETP Security to be redeemed;
  - (5) the number of ETP Securities to be redeemed would not result in any Maximum Daily Redemption Limit, or any other applicable limitation on redemption under the Operating Procedures Agreement, being exceeded (for the purposes of which, Redemption Orders shall be dealt with in order of their actual receipt by the Issuer), unless the Margin Loan Provider nonetheless agrees to that Maximum Daily Redemption Limit, or other applicable limitation, being exceeded (and if the Margin Loan Provider does not so agree, such Redemption Order will be valid under this Condition 8.3(A)(5) in respect of the greatest number of ETP Securities that would not result in any Maximum Daily Redemption Limit being exceeded);
  - (6) the Redemption Order is received or deemed to have been received before the occurrence of a Mandatory Redemption Event;
  - (7) on the day it is received (or deemed to have been received by the Issuer) until the Optional Redemption Pricing Date (if different) none of the following events has occurred and is continuing:
    - (a) an Event of Default;
    - (b) a Margin Loan Provider Event of Default; or
    - (c) an Adjustment Event;
  - (8) it is not invalid pursuant to Condition 8.3; or
  - (9) unless the Issuer otherwise agrees in its absolute discretion, such Redemption Order is submitted by an Authorised Participant on any day and no other Redemption Order has been submitted by that Authorised Participant on or in respect of such day in respect of the same Series.
- (B) If the Issuer determines that a Redemption Order is invalid in whole or in part, it shall notify the ETP Securityholder of that fact as soon as reasonably practicable and no ETP Securities may be redeemed pursuant to a Redemption Order that the Issuer has determined in its absolute discretion is invalid.
- (C) The Issuer shall not be obliged to redeem any ETP Securities pursuant to a Redemption Order where the Margin Loan Provider has not confirmed the Termination of the relevant proportion of the Margin Account Agreement in accordance with the provisions of the Margin Account Agreement and the Operating Procedures Agreement.
- (D) Where a Redemption Order is received by the Issuer on a Valuation Date after the Notice Deadline, such Redemption Order should be void unless the Margin Loan

Provider provides its consent for the Issuer to treat such Redemption Order as if it had been received by it prior to the Notice Deadline.

- (E) Within one DublinLondon Business Day after the Optional Redemption Pricing Date in respect of any Redemption Order, which shall be postponed to the next DublinLondon Business Day in case such day is not a DublinLondon Business Day, the Issuer shall notify the relevant ETP Securityholder of the Optional Redemption Amount payable in respect of ETP Securities which are the subject of that Redemption Order, calculated as provided above.
- (F) The Issuer may change or vary the procedures for the submission of Redemption Orders on five calendar days' prior notice to the ETP Securityholders in accordance with Condition 17 and these Conditions shall be interpreted accordingly.

#### 8.4 Settlement of Optional Redemptions

- (A) The Issuer may at its discretion elect to satisfy requests for the Optional Redemption of ETP Securities by transfer of the appropriate number of ETP Securities to one or more Authorised Participants from ETP Securityholders requesting redemption, and for that purpose the Issuer may authorise any person on behalf of the ETP Securityholder to execute one or more instruments of transfer in respect of the relevant number of ETP Securities provided that the amount payable to the ETP Securityholder shall nonetheless be an amount equal to the relevant Optional Redemption Amount and the relevant Optional Redemption Settlement Date shall be the date of such transfer.
- (B) The Issuer may in accordance with the relevant Authorised Participant Agreement and the Operating Procedures Agreement agree with any ETP Securityholder which is also an Authorised Participant to satisfy any requests for the Optional Redemption of any ETP Securities by the transfer to, or to the order of, such ETP Securityholder on the Optional Redemption Settlement Date of Collateral Assets with a value determined by the Determination Agent to be equal to the Optional Redemption Amount.

#### 8.5 Suspension of Optional Redemptions

- (A) If on any Valuation Date (a "Threshold Event Date") the ETP Security Value falls to less than 2.00 per cent. of the Principal Amount of the ETP Securities:
  - (1) The Issuer shall give notice convening a meeting of ETP Securityholders on a date not more than 30 calendar days after the Threshold Event Date for the purpose of considering an Extraordinary Resolution which would have the effect of reducing the Principal Amount of the ETP Securities to an amount which is not less than 2.00 per cent. of the ETP Security Value as at the time of suspension of redemptions, in which event the suspension will cease only if such Extraordinary Resolution is passed; and
  - (2) the Issuer may at any time after the Threshold Event Date, for so long as the ETP Security Value continues to be less than 2.00 per cent. of the Principal Amount of the ETP Securities, suspend the right to request redemption of ETP Securities pursuant to Condition 8.2.
- (B) If the Margin Loan Provider has defaulted in its obligations under the Margin Account Agreement and such default is continuing (such event, a "Margin Loan Provider Event of Default"), the Issuer may at any time and from time to

time while such Margin Loan Provider Event of Default is continuing suspend the right to request redemption of the ETP Securities pursuant to Condition 8.2.

In each case, subject as provided in this Condition 8.5, the Issuer may at its discretion terminate any such suspension at any time.

The following provisions shall apply where Optional Redemptions have been suspended:

- (i) the Issuer shall give notice of any such suspension and of the termination of any such suspension to the Programme Parties and the ETP Securityholders in accordance with Condition 17, as soon as reasonably practicable, but the failure to give such any such notice shall not prevent the exercise of such discretions;
- (ii) any such suspension may continue for a period of up to 60 calendar days, and may continue thereafter at the discretion of the Issuer (1) in the case of a suspension pursuant to Condition 8.5(A)(2), if the Extraordinary Resolution referred to in Condition 8.5(A)(1) above has not been passed; or (2) in the case of a suspension pursuant to Condition 8.5(B), for so long as the Margin Loan Provider Event of Default is continuing; and
- (iii) any suspension shall not affect any Optional Redemption pursuant to a Redemption Order, the Optional Redemption Pricing Date for which had passed before the suspension commenced, but any Redemption Order in respect of ETP Securities submitted or deemed to be received on a Valuation Date when the right to request redemption of the ETP Securities pursuant to Condition 8.2 is suspended pursuant to this Condition 8.5 shall be invalid.

#### 8.6 Issuer Call Redemption Event

The Issuer may, on giving an irrevocable notice to the Margin Loan Provider and the ETP Securityholders in accordance with Condition 17, elect to redeem all or some only of the ETP Securities and designate a Mandatory Redemption Date for such purposes, provided that the date designated as the Mandatory Redemption Date shall not be earlier than the fifth calendar day following the date of the relevant notice (such notice an "**Issuer Call Redemption Notice**"). In the event that only some of the outstanding ETP Securities are called for redemption pursuant to an Issuer Call Redemption Notice, a *pro rata* portion of each ETP Securityholder's ETP Securities shall be subject to such redemption.

For the purposes of Condition 8.7, a Mandatory Redemption Event in the form of an "**Issuer Call Redemption Event**" will occur on the Mandatory Redemption Date designated in the Issuer Call Redemption Notice (or if such day is not a Valuation Date on the first following Valuation Date). The Issuer shall give a copy of the Issuer Call Redemption Notice to each of the Programme Parties on the same date as such notice is given to the Margin Loan Provider and the ETP Securityholders.

#### 8.7 Mandatory Redemption Events

Each of the following events shall be a mandatory redemption event in respect of the ETP Securities (each a "**Mandatory Redemption Event**"):

- (A) *Disruption Redemption Event*: the occurrence of a Disruption Redemption Event. For the purposes of Condition 8.7, a Mandatory Redemption Date will occur on the fifth [Dublin Exchange](#) Business Day after the date of the notice from the Issuer to the ETP Securityholders in accordance with Condition 9.3(C);
- (B) *Threshold Redemption Event*: if on any Valuation Date falling on or after the 60<sup>th</sup> calendar day following a Threshold Event Date, the ETP Security Value is less than 2.00 per cent.

of the Principal Amount of such ETP Securities, the Issuer shall designate a Mandatory Redemption Date in respect of the ETP Securities;

- (C) *Termination of appointment of Agent or Authorised Participants:* any of the Determination Agent, the Issuing and Paying Agent, the Registrar, the CREST Settlement Agent (in respect of Series of ETP Securities which are cleared through CREST), the Portfolio Administrator and/or all of the Authorised Participants in relation to the ETP Securities resign their appointment or their appointment is terminated for any reason and no successor or replacement has been appointed at the time that such resignation or termination takes effect in accordance with the applicable Programme Document, and the Issuer gives notice (an "Agent Redemption Event Notice") to the Programme Parties and the ETP Securityholders in accordance with Condition 17. For the purposes of Condition 8.7, a Mandatory Redemption Date will occur on the fifth Dublin Exchange Business Day after the date of the Agent Redemption Event Notice;
- (D) *Publication failure:* if the ETP Security Value in respect of the ETP Securities has not been published by or on behalf of the Issuer for 14 consecutive Non-Disrupted Valuation Dates (a "Publication Failure Event") and the Trustee is notified in writing of such Publication Failure Event and directed in writing by holders of at least a majority of the ETP Securities then outstanding (an "ETP Securityholder Notice and Direction") to give a notice under this Condition 8.7(D) to the Issuer, the Trustee will, provided that the Trustee has been pre-funded and/or secured and/or indemnified to its satisfaction, give such notice (a "Publication Event Redemption Notice") to the Issuer, copied to each of the Programme Parties. Any such ETP Securityholder Notice and Direction must be substantially in the form set out in the Agency Agreement which is available from the Issuing and Paying Agent, any Paying Agent and/or the Trustee. For the purposes of Condition 8.7, a Mandatory Redemption Date will occur on the fifth Business Day following the date of the Publication Event Redemption Notice. The Trustee shall not be responsible for or liable to the Issuer, any ETP Securityholder or any Programme Party for investigating, verifying, determining or monitoring whether a Publication Failure Event has occurred or exists and, unless and until the Trustee receives an ETP Securityholder Notice and Direction, the Trustee shall be entitled to assume that no such event has occurred;
- (E) *Change in law or regulation:* on or after the Series Issue Date (a) due to the adoption of or any change in any applicable law, regulation, rule, order, ruling or procedure (including, without limitation, any tax law and any regulation, rule, order, ruling or procedure of any applicable regulatory authority, tax authority and/or any exchange) or (b) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority):
- (1) the Issuer has (or reasonably expects that it will) become illegal for the Issuer to (x) hold, acquire or dispose of all of the types of Collateral Asset, and/or (y) perform its obligations under the ETP Securities and/or the Margin Account Agreement; or
  - (2) the Issuer would (or would expect to) incur a materially increased cost in performing its obligations under the ETP Securities and/or the Margin Account Agreement (including, without limitation, any increase in any applicable Taxes, any decrease in any applicable tax benefit and/or any other costs or liability to Tax of the Issuer relating to any change in any applicable tax law or regulation),

the Issuer may give notice to the Programme Parties and the ETP Securityholders in accordance with Condition 17 that the ETP Securities are to be redeemed and designate a Mandatory Redemption Date for such purposes, provided that the date designated as the

Mandatory Redemption Date shall not be earlier than the fifth [DublinExchange](#) Business Day following the date of the relevant notice (such notice an "**Issuer Redemption Notice**");

- (F) *Margin Account Termination Event*: if the Margin Account Agreement terminates prior to the redemption of all the ETP Securities for any reason (a "Margin Account Termination Event"). For the purposes of Condition 8.7, a Mandatory Redemption Date will occur on the date of termination of the Margin Account Agreement; and
- (G) *Issuer Call Redemption Event*: an Issuer Call Redemption Event occurs pursuant to Condition 8.6.

Notwithstanding anything to the contrary in the Conditions or any Programme Document, if at any time following the occurrence of a Mandatory Redemption Event (the "**Initial Early Redemption Event**") an event or circumstance which would otherwise constitute or give rise to a Mandatory Redemption Event occurs (the "**Secondary Early Redemption Event**") in respect of which the Mandatory Redemption Date relating thereto occurs (or would occur) prior to the date that would have been the Mandatory Redemption Date in respect of the Initial Early Redemption Event, the Secondary Early Redemption Event shall prevail and all references to the "**Mandatory Redemption Event**" in the Conditions and the Programme Documents shall be construed accordingly.

#### **8.8 Mandatory Redemption Amount**

If any of the Mandatory Redemption Events listed in Condition 8.7 occurs, each ETP Security shall become due and payable on the related Mandatory Redemption Settlement Date at its Mandatory Redemption Amount.

The Issuer shall give notice to the ETP Securityholders of the Mandatory Redemption Date and the Mandatory Redemption Settlement Date of the ETP Securities as soon as reasonably practicable in accordance with Condition 17.

### **9. Disruption Events, Adjustments Events and postponement**

#### **9.1 Disruption Events and determination of Index Level**

If a Valuation Date is a Disrupted Day, then with respect to a Series of ETP Securities:

- (A) the calculation and publication of the ETP Security Value in respect of such Valuation Date will be postponed to the next following Valuation Date that is not a Disrupted Day;
- (B) the Issuer shall use reasonable efforts, to the extent that all required information is available to it, to publish an indicative price in respect of each ETP Security on the Issuer's Website, solely for information purposes.

#### **9.2 Postponement of settlement of subscriptions and Optional Redemptions**

- (A) If a Subscription Order or a Redemption Order (which is determined to be valid in accordance with the terms of the Operating Procedures Agreement) is received by the Issuer on a Valuation Date which is a Disrupted Day, then such Subscription Order or Redemption Order shall be deemed to have been received by the Issuer on the day on which the ETP Security Value is deemed to be determined in respect of that Valuation Date. No additional amount shall be payable to any Authorised Participant (or any ETP Securityholder acquiring ETP Securities from, or selling ETP Securities to, an Authorised Participant) in connection with the postponement of Subscription Settlement Date or

Optional Redemption Settlement Date, as applicable.

- (B) A Subscription Order delivered by an Authorised Participant which has been deferred in accordance with Condition 9.2(A) may be withdrawn by that Authorised Participant in accordance with the terms of the Operating Procedures Agreement.

### 9.3 Adjustments

- (A) If an Adjustment Event has occurred, the Issuer will, as soon as reasonably practicable, determine in good faith and in a commercially reasonable manner whether in its opinion it is appropriate to make one or more adjustments to the terms of the Conditions of the ETP Securities to account for the economic effect on the Margin Account Agreement, the Portfolio Administration Agreement and the ETP Securities of the relevant Adjustment Event.
- (B) If the Issuer determines that it is appropriate to make such adjustments referred to in (A) above, it will, as soon as reasonably practicable, determine in good faith and in a commercially reasonable manner the nature and effective date of such adjustment(s), and notify the Programme Parties and, in accordance with Condition 17, the ETP Securityholders of the occurrence of such Adjustment Event and the details of such adjustments to the Conditions and any related adjustments to the terms of the Margin Account Agreement and the Portfolio Administration Agreement (including the designation of a Successor Index, if applicable) as soon as reasonably practicable upon making such determinations.

With effect from the effective date of any such adjustment, the Issuer and the Programme Parties shall take into account the relevant adjustment(s) so notified to it when making any determination and/or calculation it is required to make under the Conditions and the terms of the relevant Programme Documents, as appropriate, and the Conditions of the ETP Securities and the terms of the Programme Documents shall be construed accordingly. Neither the consent of the Trustee nor the consent of the ETP Securityholders will be required for any such adjustment to the Conditions of the ETP Securities, provided that no such adjustment or amendment may be made which would, in the Trustee's opinion, affect its rights, protections or impose more onerous obligations on the Trustee without its consent.

- (C) If the Issuer determines that it is not appropriate to make such adjustments referred to in (A) above, the Issuer will notify the Programme Parties and, in accordance with Condition 17, the ETP Securityholders that the ETP Securities will be redeemed and, for the purposes of Condition 8.7, a Mandatory Redemption Event in the form of a "**Disruption Redemption Event**" will occur.

## 10. Payments, calculations, Agents and records

### 10.1 Payments net of Taxes

All payments in respect of the ETP Securities shall be made net of and after allowance for any withholding or deduction for, or on account of, any Taxes. In the event that any withholding or deduction for, or on account of, any Tax applies to payments in respect of the ETP Securities, the ETP Securityholders will be subject to, and shall not be entitled to receive amounts to compensate for, any such Tax or deduction or any other amounts withheld or deducted pursuant to Condition 10.3. No Event of Default shall occur as a result of any such withholding or deduction.

### 10.2 Payments

- (A) Payments of Principal in respect of Definitive Securities will, subject to Conditions 10.2(C) and 10.3, be made against presentation and surrender of the relevant ETP Securities at the specified office of any Paying Agent outside the United States, by a cheque payable in

the relevant currency drawn on, or, at the option of the holder, by transfer to, an account denominated in such currency with a Bank.

"**Bank**" means a bank in the principal financial centre of the currency of payment or, in the case of euros, a city in which banks in general have access to the TARGET2 System.

- (B) For as long as the ETP Securities are represented by a Global Security deposited with a Relevant Clearing System and held by the Relevant Clearing System or a common depository, common safekeeper or nominee, as applicable, on behalf of the Relevant Clearing System, the obligations of the Issuer under the Conditions to make payments in respect of the ETP Securities will be discharged by payment to, or to the order of, the holder of the Global Security, subject to and in accordance with the terms of such Global Security. Each of the persons shown in the records of the Relevant Clearing System as owning ETP Securities represented by such Global Security must look solely to the Relevant Clearing System for his share of any payment made by the Issuer to or to the order of the holder of the Global Security. Payments made to any person shown in the records of the Relevant Clearing System as owning any ETP Security represented by the Global Security shall be subject to and made in accordance with the rules of the Relevant Clearing System.
- (C) Notwithstanding the foregoing, for so long as the ETP Securities are represented by a Global Security, if any amount payable in respect of such ETP Securities is payable in U.S. dollars, such U.S. dollar payments shall be made at the specified office of a Paying Agent in the U.S. if:
- (1) the Issuer has appointed Paying Agents with specified offices outside the U.S. with the reasonable expectation that such Paying Agents would be able to make payment in U.S. dollars at such specified offices outside the U.S. of the full amount due in respect of the ETP Securities in the manner provided above when due;
  - (2) payment of the full amount due at all such specified offices outside the U.S. is illegal or effectively precluded by exchange controls or other similar restrictions on the full payment or receipt of the amount due in U.S. dollars; and
  - (3) such payment is then permitted under U.S. law without involving, in the opinion of the Issuer, adverse tax consequences to the Issuer.

### 10.3 **Payments subject to fiscal laws**

All payments in respect of the ETP Securities will be subject in all cases to (i) any applicable fiscal or other laws, regulations and directives but without prejudice to the provisions of Condition 10.1 and (ii) any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the United States Internal Revenue Code of 1986 or otherwise imposed pursuant to Sections 1471 through 1474 of the United States Internal Revenue Code of 1986, any regulations or agreements thereunder, any official interpretations thereof, or any law implementing an intergovernmental approach thereto (in each case without prejudice to the provisions of Condition 10.1). No commission or expenses shall be charged to the ETP Securityholders in respect of such payments.

### 10.4 **Calculations**

- (A) The Determination Agent will, as soon as reasonably practicable on such date and/or at such time as the Determination Agent is required in accordance with the Determination Agency Agreement and the Conditions and any other Relevant Provisions, perform such duties and obligations as are required to be performed by it



in accordance therewith.

- (B) The calculation by the Determination Agent of any amount, price, rate or value required to be calculated by the Determination Agent under the Relevant Provisions shall be made in good faith and shall (in the absence of manifest error) be final and binding on the Issuer, the ETP Securityholders and the Programme Parties.

#### 10.5 Calculation by Trustee

If at any time after the Security has become enforceable pursuant to Condition 6.3 and the Determination Agent does not make any calculation relating to the ETP Security Value, Final Redemption Amount, Optional Redemption Amount or Mandatory Redemption Amount when required pursuant to the Conditions and the Programme Documents, then the Trustee may appoint an agent on its behalf to make any calculation in place of the Determination Agent provided that the Trustee shall have been pre-funded and/or secured and/or indemnified to its satisfaction by one or more ETP Securityholders in accordance with the Trust Deed. Any such calculation made on behalf of the Trustee shall for the purposes of the Conditions and the Programme Documents be deemed to have been made by the Determination Agent. In doing so, the appointed agent shall apply the provisions of the Conditions and/or the relevant Programme Document(s), with any necessary consequential amendments, to the extent that, in its opinion, it can do so, and in all other respects it shall do so in such manner as it shall deem fair and reasonable in the circumstances. In the absence of fraud, gross negligence and wilful default, the Trustee directly or its agent shall not be liable (whether directly or indirectly, in contract, in tort or otherwise) to the Issuer, the ETP Securityholders or any Programme Party for any calculation (or any delay in making any calculation) so made.

#### 10.6 Determination Agent

- (A) Subject as provided in the Conditions and the Determination Agency Agreement, the Issuer shall use all reasonable efforts to procure that there shall at all times be a Determination Agent for so long as any of the ETP Securities are outstanding. If the Determination Agent resigns or its appointment is terminated for any reason, the Issuer shall use all reasonable efforts to appoint a reputable entity that provides services of a similar type to those required of the Determination Agent under the Relevant Provisions or a leading bank or investment banking firm ~~(acting through its principal London office or any other office actively involved in such market)~~ engaged in the interbank market (or, if appropriate, money, swap, commodity or over-the-counter commodity futures and options or index options market) that the Issuer reasonably determines is capable of making the calculation(s) required to be made by the Determination Agent under the Relevant Provisions to act as such in its place.
- (B) The Determination Agent shall not be liable (whether directly or indirectly, in contract, in tort or otherwise) to the Issuer, any ETP Securityholder, any other Programme Party or any other person for any Loss incurred by any such person that arises out of or in connection with the performance by the Determination Agent of its obligations under the Determination Agency Agreement, the Conditions and the other Relevant Provisions provided that nothing shall relieve the Determination Agent from any Loss arising by reason of acts or omissions constituting bad faith, fraud or gross negligence of the Determination Agent (any such act or omission, a "Determination Agent Breach").
  - (1) If the Determination Agent would, but for the operation of this Condition 10.6(B)(1), be held liable for any Loss arising as the result of a Determination Agent Breach, the Determination Agent shall nevertheless incur no liability to the Issuer, any ETP Securityholder, any other Programme Party or any other person if such Determination Agent Breach results solely and directly from either (i) the

failure by any other Programme Party to provide any notice, instruction or direction which such Programme Party is required or permitted to give under the Conditions or any relevant Programme Document or (ii) a delay in the delivery by any other Programme Party of any notice, instruction or direction which such Programme Party is required or permitted to give to the Determination Agent under the Conditions or any relevant Programme Document.

- (2) If the Determination Agent would, but for the operation of this Condition 10.6(B)(2), be held liable for any Loss arising as the result of a Determination Agent Breach, the Determination Agent shall nevertheless incur no liability to the Issuer, any ETP Securityholder, any other Programme Party or any other person if such Determination Agent Breach results solely and directly from the reliance by the Determination Agent upon a rate, amount, quotation, value or other calculation or determination notified to the Determination Agent pursuant to the Conditions and/or any relevant Programme Document which is made by another Programme Party in accordance with the Conditions and the terms of any relevant Programme Document.
- (C) The Determination Agent has no obligation towards or relationship of agency or trust with any ETP Securityholder.
- (D) The Determination Agent has no duties or responsibilities except those expressly set forth in the Conditions, the Determination Agency Agreement and the other Relevant Provisions and no implied or inferred duties or obligations of any kind will be read into the Determination Agency Agreement against or on the part of the Determination Agent. The Determination Agent will not, and will not be deemed to, assume or be liable for the obligations or duties of the Issuer or any other person under the Conditions, the Trust Deed or any other Programme Document unless otherwise agreed pursuant to the Relevant Provisions.

#### 10.7 Appointment of Agents

Save as provided below, the Agents act solely as agents of the Issuer. The Agents do not assume any obligation or relationship of agency or trust for or with any ETP Securityholder. The Issuer may at any time without requiring the prior written approval of the Trustee or the ETP Securityholders but subject to and in accordance with the provisions of the relevant Programme Documents, terminate the appointment of an Agent, replace an Agent or appoint additional or other Agents. Without prejudice to the provisions for the automatic termination of the appointment of an Agent in connection with the occurrence of an insolvency or similar event or proceedings in the relevant Programme Documents, the Issuer shall use reasonable endeavours to at all times maintain (i) an Issuing and Paying Agent, a CREST Settlement Agent ([in respect of Series of ETP Securities which are cleared through CREST](#)) and a Registrar, (ii) a Determination Agent, (iii) a Portfolio Administrator, and (iv) such other agents as may be required by any stock exchange on which the ETP Securities may be listed. Notice of any change of Agent or any change to the specified office of an Agent shall promptly be given to the ETP Securityholders by the Issuer in accordance with Condition 17.

Pursuant to the terms of the Trust Deed, at any time after an Event of Default or a Potential Event of Default has occurred in relation to the ETP Securities, the Trustee may (i) by notice in writing to the Issuer, the Issuing and Paying Agent and any other Paying Agents, the Registrar, the Portfolio Administrator, the CREST Settlement Agent ([in respect of Series of ETP Securities which are cleared through CREST](#)), any Transfer Agents, and/or the Determination Agent, require any and all of such Agents, until notified by the Trustee to the contrary, so far as permitted by applicable law to (a) act as agent of the Trustee under the Trust Deed and the ETP Securities *mutatis mutandis* on the terms of the Agency Agreement and/or the Portfolio Administration Agreement and/or the

Determination Agreement, as applicable (with consequential amendments as necessary) and except that the Trustee's liability for the indemnification, remuneration and all other expenses of such Agents (if any) shall be limited to the amounts for the time being held by the Trustee in respect of the ETP Securities on the terms of the Trust Deed and which are available (after application in accordance with the relevant order of priority set out in Condition 6.5) to discharge such liability); or (b) deliver the ETP Securities and all moneys, documents and records held by them in respect of the ETP Securities to or to the order of the Trustee or as the Trustee directs in such notice, and (ii) by notice in writing to the Issuer require it to make all subsequent payments in respect of the ETP Securities to or to the order of the Trustee and not to the Issuing and Paying Agent, the CREST Settlement Agent ([in respect of Series of ETP Securities which are cleared through CREST](#)) and/or the Registrar (as the case may be) with effect from the receipt of any such notice by the Issuer; and from then until such notice is withdrawn, proviso (1) of Condition 6.2(A) shall cease to have effect.

#### **10.8 Authorised Participants**

Notwithstanding anything to the contrary in these Conditions, for the avoidance of doubt, neither the approval of ETP Securityholders by way of an Extraordinary Resolution of ETP Securityholders or otherwise or the consent of the Trustee is required (without limitation) in connection with the accession of a new Authorised Participant to the Programme or the termination of the appointment of an existing Authorised Participant (including the Initial Authorised Participant). Without prejudice to the forgoing and Condition 8.7(C), the Issuer shall use reasonable endeavours to at all times maintain at least one Authorised Participant.

#### **10.9 Business day convention and non-Payment Business Days**

- (A) If any date for payment in respect of any ETP Security is not a Payment Business Day, the holder shall not be entitled to payment until the next following Payment Business Day or to any interest or other sum in respect of such postponed payment.
- (B) If any date referred to in the Conditions would otherwise fall on a day that is not a Valuation Date, then such date shall be postponed to the next day that is a Valuation Date.

#### **10.10 Records**

For so long as the ETP Securities are represented by a Global Security in NGN form, the records of the Relevant Clearing Systems (which expression in this Condition 10.10 means the records that each Relevant Clearing System holds for its customers which reflect the amount of such customers' interests in the ETP Securities) shall be conclusive evidence of the number of the ETP Securities represented by the Global Security and, for these purposes, a statement issued by the Relevant Clearing System (which statement shall be made available to the bearer upon request) stating the number of ETP Securities represented by the Global Security at any time shall be conclusive evidence of the records of the Relevant Clearing System at that time.

#### **10.11 Negotiability of Global Bearer Security**

If the ETP Securities are Bearer Securities represented by a Global Bearer Security, the Global Bearer Security is a bearer document and negotiable and accordingly:

- (A) is freely transferable by delivery and such transfer shall operate to confer upon the transferee all rights and benefits appertaining hereto and to bind the transferee with all

obligations appertaining hereto pursuant to these Conditions;

- (B) the holder of the Global Bearer Security is and shall be absolutely entitled as against all previous holders to receive all amounts by way of amounts payable upon redemption or otherwise payable in respect of the Global Bearer Security and the Issuer waives as against such holder and any previous holder of the Global Bearer Security all rights of set-off or counterclaim that would or might otherwise be available to it in respect of the obligations evidenced by the Global Bearer Security; and
- (C) payment upon due presentation of the Global Bearer Security will operate as a good discharge against such holder and all previous holders of the Global Bearer Security.

11. **Prescription**

Claims against the Issuer for payment under the Conditions in respect of the ETP Securities shall be prescribed and become void unless made within 10 years from the date on which the payment of Principal in respect of the ETP Securities first became due or (if any amount of the money payable was improperly withheld or refused) the date on which payment in full of the amount outstanding was made or (if earlier) the date seven days after that on which notice is duly given to the ETP Securityholders that, upon further presentation of the ETP Security being made in accordance with the Conditions, such payment will be made, provided that payment is in fact made upon such presentation (such date the "**Relevant Date**") save that if the ETP Securities are in global bearer form claims in respect of Principal in respect of the relevant Global Bearer Security shall become void unless the Global Bearer Security is presented for payment within a period of 10 years from the appropriate Relevant Date.

12. **Events of Default**

If any of the following events (each, an "**Event of Default**") occurs, the Trustee at its discretion may or will, if so directed in writing by holders of at least a majority of the ETP Securities then outstanding or if so directed by an Extraordinary Resolution, a copy of which has been provided to the Trustee (provided that in each case the Trustee shall have been indemnified and/or secured and/or pre-funded to its satisfaction by one or more ETP Securityholders in accordance with the Trust Deed), give notice to the Issuer (copied to each Programme Party) (such notice an "**Event of Default Redemption Notice**") that the ETP Securities are, and they shall immediately become, due and payable at their Final Redemption Amount:

- (A) the Issuer defaults in the payment of any sum due in respect of the ETP Securities or any of them for a period of 14 calendar days or more;
- (B) the Issuer does not perform or comply with any one or more of its obligations (other than a payment obligation) under the ETP Securities, the Trust Deed or any other Programme Document, which default is incapable of remedy or, if in the opinion of the Trustee capable of remedy, is not remedied within 30 calendar days (or such longer period as the Trustee may permit) after notice of such default shall have been given to the Issuer by the Trustee (and, for these purposes, a failure to perform or comply with an obligation shall be deemed to be remediable notwithstanding that the failure results from not doing an act or thing by a particular time);
- (C) any order shall be made by any competent court or any resolution passed for the winding-up or dissolution of the Issuer, save for the purposes of amalgamation, merger, consolidation, reorganisation or other similar arrangement on terms previously approved in

writing by the Trustee or by an Extraordinary Resolution;

(D) an examiner is appointed in respect of the Issuer; or

(E) a Margin Loan Provider Event of Default or Margin Loan Provider insolvency occurs

The Issuer will, as soon as reasonably practicable after receipt of any Event of Default Redemption Notice, give notice thereof to the ETP Securityholders in accordance with Condition 17 and to the Authorised Participant(s).

The Issuer has undertaken in the Trust Deed that, on each anniversary of the issue date of the first Series of ETP Securities issued under the Programme and also within 14 calendar days after any request by the Trustee, it will send to the Trustee a certificate signed by a Director of the Issuer to the effect that as at a date not more than five calendar days prior to the date of the certificate no Event of Default, or event or circumstance that could with the giving of notice, lapse of time and/or issue of a certificate become an Event of Default, has occurred.

### 13. **Enforcement**

Pursuant to the terms of the Trust Deed, only the Trustee may, at its discretion and without further notice, take such action or step or institute such proceedings against the Issuer, as it may think fit to enforce the rights of the holders of the ETP Securities against the Issuer whether the same arise under general law, the Trust Deed or the ETP Securities, any other Programme Document or otherwise, but, in each case, it need not take any such action or step or institute proceedings unless in accordance with the terms of the Trust Deed, the Trustee is so directed by an Extraordinary Resolution a copy of which has been provided to the Trustee or notified in writing by holders of at least a majority of the ETP Securities then outstanding and it shall have been secured and/or prefunded and/or indemnified to its satisfaction.

None of the Secured Creditors shall be entitled to proceed directly against the Issuer unless the Trustee, having become bound to proceed in accordance with the terms of the Security Documents, fails or neglects to do so within a reasonable time and such failure is continuing.

The ETP Securityholders acknowledge and agree that only the Trustee may enforce the Security over the Secured Property in accordance with, and subject to the terms of, the Security Documents.

The Trustee shall not be required to take any action in relation to the Security constituted by the Security Documents which may (i) be illegal or contrary to any applicable law or regulation or (ii) cause it to expend or risk its own funds or otherwise incur any liability (including any personal liability) in the performance of its duties or in the exercise of any of its rights, powers and discretions, without first being indemnified and/or secured and/or prefunded to its satisfaction.

### 14. **Meetings of ETP Securityholders, modification, waiver, substitution and restrictions**

#### 14.1 **Meetings of ETP Securityholders**

The Trust Deed contains provisions for convening meetings of the ETP Securityholders to consider any matter affecting their interests, including modification by Extraordinary Resolution of the ETP Securities (including these Conditions or the provisions of the Trust Deed insofar as the same may apply to such ETP Securities).

The quorum at any such meeting for passing an Extraordinary Resolution will be two or more ETP Securityholders or agents present in person holding or representing in the aggregate more than 50 per cent. of the number of the ETP Securities for the time being outstanding or, at any adjourned such meeting, two or more ETP Securityholders or agents present in person being or representing ETP Securityholders, whatever the number of the ETP Securities so held or represented, and an

Extraordinary Resolution duly passed at any such meeting shall be binding on all the ETP Securityholders, whether present or not, except that any Extraordinary Resolution proposed, *inter alia*, (i) to amend the dates of maturity or redemption of the ETP Securities (ii) to reduce or cancel the principal amount payable on redemption of, the ETP Securities, (iii) to change any method of calculating the Final Redemption Amount, the Optional Redemption Amount or the Mandatory Redemption Amount, (iv) to change the currency or currencies of payment or Denomination of the ETP Securities, (v) to take any steps which as specified in the Trust Deed may only be taken following approval by an Extraordinary Resolution to which the special quorum provisions apply, (vi) to modify the provisions concerning the quorum required at any meeting of ETP Securityholders or the majority required to pass an Extraordinary Resolution, (vii) to modify the provisions of the Trust Deed concerning this exception or (viii) to modify any other provisions specifically identified for this purpose in the Trust Deed will only be binding if passed at a meeting of the ETP Securityholders, the quorum at which shall be two or more ETP Securityholders or agents present in person holding or representing in the aggregate not less than 75 per cent. of the number of ETP Securities for the time being outstanding, or at any adjourned meeting, two or more ETP Securityholders or agents present in person being or representing in the aggregate not less than 10 per cent. of the number of the ETP Securities so held or represented (provided that at an adjourned meeting convened for the purpose of reducing the Principal Amount of the ETP Securities following a Threshold Event Date, the quorum shall be two or more ETP Securityholders or agents whatever the number of ETP Securities so held or represented). The holder of a Bearer Security or Registered Security in global form representing all of the ETP Securities for the time being outstanding will be treated as being two persons for the purposes of such quorum requirements. A resolution in writing signed by or on behalf of the holders of not less than 75 per cent. of the aggregate number of the ETP Securities for the time being outstanding shall for all purposes be as valid and effectual as an Extraordinary Resolution passed at a meeting of ETP Securityholders.

#### 14.2 Modification of the relevant Programme Documents

- (A) Subject to Condition 14.3(F), the Trustee may agree, without the consent of the ETP Securityholders, to (i) any modification to these Conditions, the Trust Deed and/or any other Programme Document to which the Trustee is a party which is, in the opinion of the Trustee, of a formal, minor or technical nature or is made to correct a manifest error, and (ii) any other modification, and any waiver or authorisation of any breach or proposed breach of any of these Conditions or any of the provisions of the Trust Deed and/or any other Programme Document to which the Trustee is a party that is in the opinion of the Trustee not materially prejudicial to the interests of the ETP Securityholders. Any such modification, authorisation or waiver will be binding on the ETP Securityholders and, if the Trustee so requires, such modification will be notified by the Issuer to the ETP Securityholders in accordance with Condition 17 as soon as reasonably practicable. This Condition 14.2(A) shall not limit the authority of the Issuer to make any of the modifications to these Conditions, the Trust Deed and/or any other Programme Document as set out in Condition 14.2(B).
- (B) The Issuer may agree, without of the consent of the Trustee or the ETP Securityholders, to any modification to these Conditions, the Trust Deed and/or any other Programme Document (whether or not the Trustee is a party thereto) which is not specifically stated therein to require the consent of the Trustee or the ETP Securityholders, including any modification which is made:
  - (1) in connection with the accession of a new Authorised Participant to the Programme or the termination of the appointment of an existing Authorised

Participant (including the Initial Authorised Participant);

- (2) in connection with any variation of the terms of appointment of an Agent, the termination of the appointment of an Agent, the replacement of an Agent, the appointment of additional Agents or any variation or amendment to the terms of any Programme Document;
- (3) in connection with an amendment to the terms of the Programme to extend the range of assets which may be included as Collateral Assets for any Series of ETP Securities to be issued following the date of the relevant amendments;
- (4) in connection with an amendment to the terms of the Programme to facilitate the issue of Series of ETP Securities which pursue actively managed Investment Strategies, such Series to be issued following the date of the relevant amendment;
- (5) in order to facilitate any application for the admission of the ETP Securities of any Series to listing or trading on any stock exchange;
- (6) in order to effect the transfer of the Margin Account Agreement to a new Margin Loan Provider or to make amendments consequent upon such transfer; or
- (7) to effect any adjustment to the Conditions of the ETP Securities and/or the terms of the Margin Account Agreement pursuant to Condition 9.3 as a consequence of the occurrence of an Adjustment Event provided that:
  - (a) the adjustments so agreed have the consequence that at the time of the adjustments there is no negative change to the ETP Security Value in respect of the ETP Securities; and
  - (b) the adjustments do not take effect until at least three calendar days have elapsed after they are announced to the ETP Securityholders in accordance with Condition 17.

To the extent that the consent of the Trustee is required in order to give effect to any modification to these Conditions, the Trust Deed and/or any other Programme Document to which the Trustee is a party which the Issuer certifies to the Trustee is necessary or desirable to be made for the purposes described in paragraphs (1) to (7) above, the Trustee shall agree, without the consent of the ETP Securityholders, to such modification provided however that the Trustee shall not be required to agree to any modification which would, in the Trustee's opinion, affect its rights, protections or impose more onerous obligations on the Trustee.

### 14.3 Substitution

The Trustee may, without the consent of the ETP Securityholders, but subject to the prior consent of each Authorised Participant and the Margin Loan Provider, agree to the substitution, in place of the Issuer (or of any previous substitute) as the principal debtor under the Security Documents, the other Programme Documents to which it is a party and the ETP Securities of each Series, of any other company (incorporated in any jurisdiction) (any such substitute company being the "**Substituted Obligor**"), provided that:

- (A) a deed is executed or undertaking given by the Substituted Obligor to the Trustee, in form and manner satisfactory to the Trustee, agreeing to be bound by the Security Documents and the ETP Securities of each Series (with such consequential amendments as the

Trustee may deem appropriate) as if the Substituted Obligor had been named in the Security Documents and the ETP Securities as the principal debtor in place of the Issuer;

- (B) the Substituted Obligor assumes all rights, obligations and liabilities in relation to the Secured Property, acknowledges the Security created in respect thereof pursuant to the Security Documents and takes all such action as the Trustee may require so that the Security constitutes a valid charge, pledge or other security interest over the Secured Property as was originally created by the Issuer for the obligations of the Substituted Obligor;
- (C) if any director of the Substituted Obligor certifies that it will be solvent immediately after such substitution, the Trustee need not have regard to the Substituted Obligor's financial condition, profits or prospects or compare them with those of the Issuer;
- (D) the Trustee will be satisfied (if it requires, by reference to legal opinions) that (a) all necessary governmental and regulatory approvals and consents necessary for or in connection with the assumption by the Substituted Obligor of liability as principal debtor in respect of, and of its obligations under, the ETP Securities of each Series and any Programme Document have been obtained and (b) such approvals and consents are at the time of substitution in full force and effect;
- (E) the Issuer and the Substituted Obligor will execute and the Issuer shall procure that the Margin Loan Provider and any other Programme Party will execute such other deeds, documents and instruments (if any) as the Trustee may require in order that such substitution is fully effective and comply with such other requirements in the interests of the ETP Securityholders as the Trustee may direct;
- (F) in connection with any proposed substitution of the Issuer, the Trustee may, without the consent of the holders of the ETP Securities, agree to a change of the law from time to time governing such ETP Securities and/or the Supplemental Trust Deed and/or the Security Documents, provided that such change of law, in the opinion of the Trustee, would not be materially prejudicial to the interests of such ETP Securityholders;
- (G) the Issuer and the Substituted Obligor comply with such other requirements as the Trustee may direct in the interests of the ETP Securityholders; and
- (H) a legal opinion satisfactory to the Trustee is provided concerning any proposed substitution.

An agreement by the Trustee pursuant to this Condition 14.3 and the Security Documents will, if so expressed, release the Issuer (or a previous substitute) from any or all of its obligations under the Security Documents, the ETP Securities and the other relevant Programme Documents. The Substituted Obligor shall give notice of the substitution to the ETP Securityholders within 14 calendar days of the execution of such documents and compliance with such requirements.

On completion of the formalities set out in this Condition 14.3 and the Security Documents, the Substituted Obligor shall be deemed to be named in these Conditions, the Security Documents, the other Programme Documents and the ETP Securities as the principal debtor in place of the Issuer (or of any previous substitute) and these Conditions, the Security Documents, the other Programme Documents and the ETP Securities shall be deemed to be amended as necessary to give effect to the substitution.



#### 14.4 Entitlement of the Trustee

In accordance with the terms of the Trust Deed, in connection with the exercise of its functions under the relevant Programme Documents, the Trustee will have regard solely to the interests of the ETP Securityholders as a Series and will not have regard to the consequences of such exercise for individual ETP Securityholders and the Trustee will not be entitled to require, nor shall any ETP Securityholder be entitled to claim, from the Issuer any indemnification or payment in respect of any Tax consequence of any such exercise upon individual ETP Securityholders.

So long as the ETP Securities are in global form and such Global Security is held by or on behalf of the Relevant Clearing System, in considering the interests of ETP Securityholders, the Trustee may have regard to any information provided to it by the Relevant Clearing System or its operator as to the identity (either individually or by category) of its accountholders or participants with entitlements to any such Global Security and may consider such interests on the basis that such accountholders or participants were the holder(s) thereof.

#### 14.5 Prohibition on U.S. persons

ETP Securities may not be legally or beneficially owned by any U.S. person at any time nor offered, sold or delivered within the United States or to U.S. persons. The Issuer has the right, at its option, to refuse to recognise any such transfer or to compel any legal or beneficial owner of ETP Securities who contravenes such prohibition to void the transfer of such ETP Securities to such legal or beneficial owner or to redeem any such ETP Securities held by such legal or beneficial owner. Transfers may be voided by the Issuer by compelling a sale by such legal or beneficial owner or by the Issuer selling such ETP Securities on behalf of such legal or beneficial owner at the lesser of the purchase price therefor or the ETP Security Value prevailing at the time such transfer is voided. Terms used in this Condition 14.5 have the meanings given to them by Regulation S under the Securities Act.

#### 14.6 ERISA prohibition

ETP Securities may not be legally or beneficially owned by any entity that is, or that is using the assets of, (a)(i) an "**Employee Benefit Plan**" (as defined in Section 3(3) of the United States Employee Retirement Income Security Act of 1974, as amended ("**ERISA**")) that is subject to the fiduciary responsibility requirements of Title I of ERISA, (ii) any plan to which Section 4975 of the United States Internal Revenue Code of 1986, as amended (the "**Code**") applies (a "**Plan**") or (iii) an entity whose constituent assets include "**Plan Assets**" (as determined pursuant to the "Plan Assets Regulation" issued by the United States Department of Labor at 29 C.F.R. Section 2510.3-101 as modified by Section 3(42) of ERISA) by reason of any such Employee Benefit Plan's or Plan's investment in the entity or (b) a non-U.S. plan, governmental plan, church plan or other plan that is subject to any federal, state, local, non-U.S. or other law or regulation that is similar to the provisions of Section 406 of ERISA or Section 4975 of the Code (a "**Similar Law**") unless its acquisition and holding and disposition of such Security, or any interest therein, has not and will not constitute a violation of such Similar Law. The Issuer has the right, at its option, to refuse to recognise any such transfer or to compel any legal or beneficial owner of ETP Securities who contravenes such prohibition to void the transfer of such ETP Securities to such legal or beneficial owner or to redeem any such ETP Securities held by such legal or beneficial owner. Transfers may be voided by the Issuer by compelling a sale by such legal or beneficial owner or by the issuer selling such ETP Securities on behalf of such legal or beneficial owner at the lesser of the purchase price therefor or the ETP Security Value prevailing at the time such transfer is voided. Terms used in this Condition 14.6 have the meanings given to them by the Code.

### 15. Replacement of ETP Securities

If an ETP Security in bearer form is lost, stolen, mutilated, defaced or destroyed, it may be replaced, subject to applicable laws, regulations and stock exchange or other relevant authority regulations,

at the specified office of the Issuing and Paying Agent ~~in London~~ or such other Paying Agent, as the case may be, as may, from time to time, be designated by the Issuer for the purpose and notice of whose designation is given to ETP Securityholders, in each case on payment by the claimant of the fees and costs incurred in connection therewith and on such terms as to evidence, security, indemnity (which may provide, *inter alia*, that if the allegedly lost, stolen or destroyed ETP Security is subsequently presented for payment there shall be paid to the Issuer on demand the amount payable by the Issuer in respect of such ETP Security) and otherwise as the Issuer may require. Mutilated or defaced ETP Securities must be surrendered before replacements will be issued.

16. **Issue of further Tranches and Series of ETP Securities**

**16.1 Further Tranches**

Subject to Condition 6, the Issuer may, from time to time (without the consent of the Trustee or any ETP Securityholder), in accordance with the Trust Deed, the Conditions and the Authorised Participant Agreement(s), create and issue further securities either having the same terms and conditions as the ETP Securities in all respects and so that such further issue shall be consolidated and form a single Series with the ETP Securities or upon such terms as the Issuer may determine at the time of their issue and/or incur further obligations relating to such securities.

Only an Authorised Participant may request that the Issuer issue additional Tranches of the ETP Securities by delivering a valid Subscription Order subject to and in accordance with the terms of the relevant Authorised Participant Agreement.

The Issuer will only accept a Subscription Order and issue ETP Securities if:

- (A) a Subscription Order is given by an Authorised Participant and determined to be valid by or on behalf of the Issuer;
- (B) the acceptance of such Subscription Order will not cause any Subscription Limit for the ETP Securities or the Margin Account Agreement to be exceeded;
- (C) in connection with such issue of ETP Securities, the Margin Loan Provider agrees to any increase of the economic exposure under the Margin Account Agreement which is necessary to facilitate the issue of such ETP Securities; and
- (D) all conditions precedent to an issue of the ETP Securities are satisfied.

The Issuer shall have no obligation to issue further ETP Securities and no obligation to accept any Subscription Orders from (but excluding) the fifth Valuation Date preceding the Final Redemption Date of the ETP Securities.

In accordance with the terms of the Authorised Participant Agreement(s), the Operating Procedures Agreement and the Margin Account Agreement, the Issuer will not be obliged to accept any Subscription Order and/or issue ETP Securities if (i) a Subscription Suspension Event has occurred and is continuing, and/or (ii) a Mandatory Redemption Event has occurred and/or a Margin Loan Provider Event of Default has occurred and/or (iii) the Margin Loan Provider does not consent to increase the economic exposure under the Margin Account Agreement by a *pro rata* amount. If an Issuer Call Redemption Notice is delivered the last day on which the Issuer is required to accept a valid Subscription Order shall be the fifth ~~Dublin~~ DublinExchange Business Day preceding the related Mandatory Redemption Date designated in such notice. If an Issuer Redemption Notice is delivered by the Issuer the last day on which the Issuer is required to accept a valid Subscription Order shall be the fifth ~~Dublin~~ DublinExchange Business Day preceding the related Mandatory Redemption Valuation Date designated in such notice. If the Margin Loan Provider elects for the Margin Account Agreement to terminate on the last day of its scheduled term and such date falls before the Final Redemption Date of the ETP Securities the last day on which the Issuer is required to accept a

valid Subscription Order shall be the fifth [DublinExchange](#) Business Day preceding the scheduled termination date of the Margin Account Agreement. If a Margin Account Termination Event is designated or occurs under the Margin Account Agreement, the last day on which the Issuer is required to accept a valid Subscription Order shall be the date of the notice designating such event. If a Mandatory Redemption Event occurs, the last day on which the Issuer is required to accept a valid Subscription Order shall be the date of the notice designating such event.

The Issuer may suspend the issuance of further ETP Securities at any time. If a Subscription Suspension Event occurs, the Issuer shall not be obliged to accept any Subscription Orders for the ETP Securities with effect from the date of suspension specified in the relevant notice to the Determination Agent and the Authorised Participants until such time (if any) as the Issuer notifies such Programme Parties that it shall recommence the issue of further Tranches of the ETP Securities. The effective date of any such suspension will be specified in the related notice and will be a day not earlier than the Valuation Date following the date of such notice. The Issuer shall give notice to ETP Securityholders in accordance with Condition 17 of any such suspension as soon as reasonably practicable after giving any notice of suspension of subscriptions.

In relation to any Subscription Order which has been accepted by or on behalf of the Issuer but in respect of which the Subscription Settlement Date has not yet occurred as at the date of the occurrence of an Event of Default, each such Subscription Order shall automatically be cancelled with effect from the date of the occurrence of such Event of Default.

In relation to any Subscription Order which is valid but in respect of which the ETP Securities are pending issue and settlement to the relevant Authorised Participant as at the Mandatory Redemption Date, the Final Redemption Date or the date of delivery of an Event of Default Redemption Notice (due to the Subscription Settlement Date not having occurred at such date, the relevant Authorised Participant not having delivered in full the relevant subscription amount on a Subscription Settlement Date falling prior to such date, or otherwise), any such Subscription Order shall automatically be cancelled with effect from such Mandatory Redemption Date, Final Redemption Date or date of delivery of an Event of Default Redemption Notice (as applicable).

If at any time after the occurrence of the Subscription Settlement Date in respect of which the relevant Authorised Participant has not paid in full the related subscription amount a Mandatory Redemption Event occurs, the Final Redemption Date occurs or an Event of Default Redemption Notice is delivered, the ETP Securities issued on any such Subscription Settlement Date which are pending settlement to the relevant Authorised Participant shall automatically be cancelled with effect from the date of the occurrence of such Mandatory Redemption Date, Final Redemption Date or date of delivery of an Event of Default Redemption Notice (as applicable). ETP Securities requested for issue and subscribed for by an Authorised Participant may be held on an inventory basis by such Authorised Participant and offered for sale and/or sold over a period of time.

In relation to any Subscription Order, in satisfaction of the relevant subscription amount, the Issuer may agree with the relevant Authorised Participant to accept the delivery to, or to the order of, the Issuer of Reference Assets which the Determination Agent determines have a value on the Subscription Settlement Date, after taking account of any costs of transfer or delivery which are to be discharged by the Issuer, which is equal to or greater than the subscription amount.

Any new securities forming a single Series with the ETP Securities and which are expressed to be constituted by the Trust Deed and secured by the Security Documents will, upon the issue thereof by the Issuer, be constituted by the Trust Deed and secured by the Security Documents without any further formality and irrespective of whether or not the issue of such securities contravenes any covenant or other restriction in the Trust Deed or the Programme Maximum Number of ETP Securities and shall be secured by the Secured Property (as increased and/or supplemented in connection with such issue of such new securities) and references in these Conditions to "**Secured Creditors**", "**Secured Property**", "**Secured Obligations**" and "**ETP Securities**" shall be construed accordingly.

17. **Notices**

17.1 All notices to holders of ETP Securities shall be valid if:

(A) they are:

- (1) published in daily newspapers with general circulation in Ireland (which is expected to be in the *Irish Times*) and in the United Kingdom (which is expected to be in the *Financial Times*); and/or
- (2) published on the website of one or more RIS(s) approved for such purposes by the applicable Relevant Stock Exchange(s) and any such notices shall be conclusively presumed to have been received by the holders; and/or
- (3) published on the Issuer's Website;

(B) for so long as the ETP Securities are listed on any Relevant Stock Exchange, they are published in accordance with the rules and regulations of such Relevant Stock Exchange or other relevant authority; and

(C) for so long as the ETP Securities are in global form, notices required to be given in respect of the ETP Securities represented by a Global Security are given by their being delivered (so long as the Global Security is held on behalf of a Relevant Clearing System) to the Relevant Clearing System, or otherwise to the holder of the Global Security, rather than by publication as required above. Any such notice shall be deemed to have been given to the holders of the ETP Securities on the Payment Business Day immediately following the day on which the notice was given to the Relevant Clearing System.

17.2 If, in the opinion of the Trustee, any such publications above are not practicable, notice shall be validly given if published in another leading daily newspaper with general circulation in the relevant country.

Any such notice shall be deemed to have been given on the date of such publication or, if published more than once or on different dates, on the first date on which publication is made, as provided above.

18. **Relevant Clearing System**

None of the Issuer, the Trustee, the Agents or the Margin Loan Provider will have any responsibility for the performance by the Relevant Clearing System (or its participants or indirect participants) of any of their respective obligations under the rules and procedures governing their operations.

19. **Governing law and jurisdiction**

19.1 **Governing law**

The Trust Deed and the ETP Securities (including any Global Security), and any non-contractual obligations arising out of or in connection with them are governed by, and shall be construed in accordance with, Irish law.

19.2 **Jurisdiction**

The courts of Ireland are to have non-exclusive jurisdiction to settle any disputes that may arise out of or in connection with any ETP Securities and, accordingly, any legal action or proceedings arising out of or in connection with any ETP Securities ("**Proceedings**") may be brought in such courts.

The Issuer irrevocably submits to the jurisdiction of such courts and waives any objections to Proceedings in such courts on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is for the benefit of each of the Trustee and the ETP Securityholders 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 any one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).