

CONDITIONS

1. DEFINITIONS

In this [Loan](#) Note (including these Conditions) the following expressions have the following meanings:-

“**Adjusted Rolled Up ZDP Amount**” means on any date (a) the Rolled Up ZDP Amount on such date minus (b) the amount of Pledged Cash on such date;

“**Articles**” means the articles of association of the Noteholder;

“**Assets**” means on any date the net sum of (i) consolidated gross assets of the Group; less (ii) intangible assets; less (iii) cash; less (iv) trade creditors payable before the date falling six months following the ZDP Final Payment Date; and less (v) outstanding deferred consideration payable for sites purchased by Group Companies other than (a) any Excess Deferred Consideration and (b) any deferred consideration payable after the date falling six months following the ZDP Final Payment Date;

“**Business Day**” means any day on which banks are [generally](#) open for business in London (excluding Saturdays, Sundays and public holidays);

“**Contribution Agreement**” means the agreement dated on or about the date of this [Loan](#) Note under which the Company has agreed, *inter alia*, to contribute (by way of gift, capital contribution or otherwise) such cash funds as will ensure that the Noteholder is able to meet in full the Rolled Up ZDP Amount on various potential dates;

[“Cover” has the meaning set out in the Articles;](#)

[“Cover Test” has the meaning given to it in the Articles;](#)

“**Directors**” means the Board of Directors of the Company;

“**Excess Deferred Consideration**” means deferred consideration due to a vendor from any member of the Group in respect of any site which represents more than 60 per cent. of the initial purchase price of such site excluding amounts payable after the date falling six months following the ZDP Final Payment Date and excluding amounts in respect of which the vendor has no recourse to the assets of the Group other than the asset sold by such vendor;

“**Final Capital Entitlement**” means ~~155.9~~[201.4](#) pence per ZDP Share;

“**Financial Indebtedness**” means the net sum of (i) bank and other borrowings of the Group less any cash of the Group and (ii) Excess Deferred Consideration; other than any such indebtedness which is repayable after six months following the ZDP Final Payment Date;

~~“**Gearing Ratio**” means the gearing ratio of (i) the sum of the Financial Indebtedness and the Rolled Up ZDP Amount to (ii) Assets;~~

“**Group**” means the Company and each subsidiary of the Company; “**Group Company**” and “**Group Companies**” shall be construed accordingly;

“**Loan Note**” means the Nominal Value for the time being issued and outstanding represented by this Secured Loan Note;

“**Pledged Cash**” means the amount of cash held by the Company in the bank account opened by the Company to hold cash which is subject to first ranking security in favour of the Noteholder;

“**Prospectus**” means the prospectus dated 14 December 2012 issued by the Noteholder and the Company relating to the admission of the ZDP Shares to a standard listing on the Official List of the UK Listing Authority and to trading on the main market of the London Stock Exchange plc;

“**Register**” means the register of holders of the Loan Note to be kept at the Company’s registered office (or at such other place as the Company may from time to time notify the holders of the Loan Note);

“**Repayment Date**” means 10 April ~~2019~~2024;

“**Rolled Up ZDP Amount**” means as at any day the accrued capital entitlement of all of the issued ZDP Shares (ignoring any ZDP Shares held in treasury);

“**Security Shortfall Amount**” on and for any Testing Date means the amount (if any) by which the Security Value Amount is less than 120 per cent. of the Adjusted Rolled Up ZDP Amount in each case at the relevant Testing Date;

“**Security Value Amount**” on any date means the sum of:

- (a) the value ascribed to the interest, whether legal, equitable or otherwise, of property or properties or property related assets of any member of the Group (together with the assets referred to in (b), “**Relevant Assets**”) in respect of which the Noteholder has first ranking security in a form acceptable to the Noteholder; and
- (b) the value of any other non-cash assets of the Company and any other member of the Group, such assets having been agreed to in advance by the Noteholder (in its absolute discretion) in respect of which the Noteholder has first ranking security in a form acceptable to the Noteholder;

“**Testing Date**” means 31 March, 30 June, 30 September and 31 December in each calendar year;

“**ZDP Final Payment Date**” means 10 April ~~2019~~2024; and

“**ZDP Shares**” means the zero dividend preference shares in the capital of the Noteholder of 10p nominal value each having the rights set out in the Articles.

2. REPAYMENT

2.1 Unless previously repaid or purchased pursuant to this Condition 2, the Loan Note will be repaid by the Company at the Repayment Value on the Repayment Date (or, if that is not a Business Day, the immediately preceding Business Day).

2.2 The Noteholder shall be entitled to call for immediate repayment of the Loan Note subject to Condition 4 if any of the following (each an “**Event of Default**” and together “**Events of Default**”) occurs and is not remedied:-

- (a) an order is made or an effective resolution is passed for the winding-up of the Company or the Noteholder; or

- (b) a material breach of the covenants in Condition 6 occurs and has not been remedied to the reasonable satisfaction of the Noteholder within ninety days; or
 - (c) a Security Shortfall Amount exists as at any Testing Date and the Company is unable to demonstrate in writing to the satisfaction of the Noteholder within three months after any such Testing Date either that (a) the Company (or any other member of the Group) has charged by way of first ranking security in a form acceptable to the Noteholder and in favour of the Noteholder additional Relevant Assets having a value equal to such Security Shortfall Amount (whether by one transaction or a series of transactions) or (b) such Security Shortfall Amount no longer exists; provided that the provisions of this Condition 2.2(c) shall not apply after 1 January ~~2019~~2024 and if the Board of the Noteholder is satisfied in its absolute discretion that the Noteholder has sufficient cash in its own bank account to fund the Final Capital Entitlement as at the ZDP Final Payment Date.
- 2.3 The Security Value Amount shall be calculated as at the Testing Date and such calculation shall be completed within 28 days of each Testing Date and will be calculated by the Noteholder on the following basis:
- (a) the value for Relevant Assets will be as derived from the prevailing IFRS valuation of those assets from time to time; and
 - (b) the value of any other assets will be agreed between the Company and the Noteholder and, in the absence of agreement within 28 days of the Testing Date, as determined by the Noteholder acting reasonably and bona fide.
- 2.4 The Company and the Noteholder may agree a different basis for valuing the Relevant Assets and/or other assets if they believe it is in the interests of their respective companies or if they believe that the above methodologies are inappropriate in any one case or generally.
- 2.5 The Company may at any time purchase the Loan Note at any price by agreement with the Noteholder.
- 2.6 If the Loan Note is due to be purchased or repaid in whole or in part and the Noteholder shall fail or refuse to deliver up the relevant certificate(s) or to accept payment of or give a receipt for such payment, the amount payable to the Noteholder shall be deposited in a separate bank account and, subject to Condition 9, retained by the Company on trust for the Noteholder (but the Company shall not be responsible for its safe custody or the payment of any interest accrued thereon) pending the acceptance or the giving of a receipt as aforesaid, which deposit shall be deemed for all the purposes of these Conditions to be a payment to the Noteholder, and the Company shall thereby be discharged from all further obligations in respect of the Loan Note.

3. CANCELLATION

If the Loan Note is repaid or purchased pursuant to Condition 2 above, it shall be cancelled and shall not be available for reissue by the Company.

4. SUBORDINATION

The obligations of the Company under the Loan Note rank *pari passu* in all respects with those under the Contribution Agreement.

5. TRANSFER

- 5.1 The Loan Note shall be transferable, in full only, with the prior written consent of the Company, which consent may be given or withheld in the absolute discretion of the Company. No assignment, transfer, sale or other disposal of the Loan Note will be registered except in accordance with Conditions 7 and 8 below.
- 5.2 The instrument of transfer of the Loan Note may be in any usual form or any other form which the Directors may approve and must be signed by the transferor who shall be deemed to remain the owner of the Loan Note to be transferred until the name of the transferee is entered in the Register in respect thereof.
- 5.3 Every instrument of transfer must be lodged for registration at the Company's registered office for the time being accompanied by the certificate for the Loan Note together with such other evidence as the Directors may require to prove the title of the transferor or his right to transfer the Loan Note and, if the instrument of transfer is executed by some other person on his behalf, the authority of that person to do so. The transfer will then be registered and a note of such registration will be entered in the Register and a new certificate for the Loan Note issued accordingly, provided that no transfer of any Loan Note in favour of more than four transferees will be registered.

6. COVENANTS BY COMPANY

- 6.1 The Company covenants to the Noteholder (for its own benefit and as trustee for the holders of the ZDP Shares) that, whilst it remains liable to repay the Loan Note, it will:-
- 6.1.1 for so long as it is the ~~holder of all the issued ordinary share capital~~ holding company of the Noteholder, not vote ~~to pass a resolution at any~~ or permit any vote to be cast at a general meeting of the Noteholder ~~relating to~~ in favour of any ~~matters~~ matter which would require the previous sanction of a special resolution passed at a separate general meeting of the holders of the ZDP Shares in the Noteholder in accordance with the Articles unless such previous sanction has first been obtained from holders of the ZDP Shares;
- 6.1.2 not (and shall, so far as it is able, procure that none of its subsidiary undertakings shall) enter into any transaction which, if it were entered into by the Noteholder, would require the previous sanction of a special resolution passed at a separate general meeting of the holders of the ZDP Shares under the Articles or otherwise as required by law, without such previous sanction having first been obtained;
- 6.1.3 not, except with the previous sanction of a special resolution passed at a separate general meeting of the holders of the ZDP Shares or as required by law:
- (a) pass, and shall procure that no other member of the Group shall pass, any resolution which authorises the directors of the relevant company to pay a dividend or other distribution or make a capital distribution or otherwise make a payment in cash or kind to the shareholders or any of them (in their capacity as such) of the relevant company;
 - (b) pass, and shall procure that no other member of the Group shall pass, a resolution to reduce the capital of the Company or any member of the Group in any manner, including any resolution authorising the directors of the relevant company to purchase shares in such company;

- (c) issue, and shall procure that no other member of the Group shall issue (other than to the Noteholder or any directly or indirectly wholly owned subsidiary thereof) further shares or securities, or rights to subscribe for or to convert or exchange any securities into shares or securities ranking *pari passu* with or in priority of the ZDP Shares,

(6.3.1 to 6.3.3, each, an “Action”)

save that the previous sanction of the holders of the ZDP Shares will not be required in the event that (i) the Cover Test (as defined in the Articles) will be satisfied immediately following such Action; or (ii) in the case of the payment of any dividend or other distribution or the making of any capital distribution or otherwise the making of a payment in cash or kind by a member of the Group to shareholders who are also members of the Group (“**Intra Group Distributions**”), this provision shall not be breached if the Cover immediately prior to the making of the Intra Group Distribution is not reduced as a result of the making of it;

6.1.4 not, except with the previous sanction of a special resolution passed at a separate general meeting of the holders of the ZDP Shares or as required by law:

- (a) make any variation of the terms of this Loan Note or the Contribution Agreement which, at the time of being made, could reasonably be considered to be materially prejudicial to the interests of the holders of the ZDP Shares; or
- (b) for so long as the Company is the holder of all of the issued ordinary shares of the Noteholder, pass a resolution amending article 49 of the Articles or releasing the board of directors of the Noteholder from its obligation to convene a general meeting on the ZDP Final Payment Date (or earlier in order to enable the Noteholder to make the payment of the Final Capital Entitlement on the ZDP Final Payment Date) at which a resolution will be proposed requiring the Noteholder to be wound up voluntarily; or
- (c) pass a resolution the effect of which is to make a fundamental change to the business model of the Company which would in any event, amount to a fundamental change for the purposes of the AIM Rules for Companies published by the London Stock Exchange;

6.1.5 except with the previous sanction of a special resolution passed at a separate general meeting of the holders of the ZDP Shares or as required by law or the UK Listing Authority, ensure that at least two individuals from the Board of Directors of the Company sit on the Board of Directors of the Noteholder as constituted from time to time;

6.1.6 except with the previous sanction of a special resolution passed at a separate general meeting of the holders of the ZDP Shares or as required by law (i); restrict the borrowings of the Company and shall exercise all voting and other rights or powers of control exercisable by the Company in relation to its subsidiaries so as to procure (as regards the subsidiaries, to such extent possible) that the aggregate principal amount from time to time outstanding in respect of all monies borrowed by the Company and its subsidiaries does not exceed the limit (if any) specified in the articles of association of the Company; and (ii) not, and shall procure that ~~if the Company’s Gearing Ratio amounts to 40 per cent. or more at any time or would do so by virtue of borrowing or incurring indebtedness for the purposes which are restricted below, it will not and~~ no member of its Group shall, incur any ~~further~~

~~borrowings or indebtedness of any kind for the purposes of acquiring any new assets (including, without limit, property or sites for development) provided that the restriction contained herein property or site for development if, at the time that such borrowings or indebtedness of any kind would be incurred or as a result of the incurrence of such borrowings or indebtedness, the Cover Test would not be met, provided that the foregoing restriction shall not apply to borrowings or indebtedness incurred for the purpose of acquiring new properties or sites for development at any time or times when the making of such acquisitions would otherwise be prohibited by the foregoing restriction provided that the aggregate amount expended by the Company or any member of its Group in making such acquisitions does not exceed £10 million and provided that any restriction on borrowings or indebtedness herein shall not apply to any borrowings or indebtedness incurred for developing existing sites, for general working capital purposes or for the purposes of paying off amounts owed under the Loan Note and/or Contribution Agreement or other pre-existing financial liabilities and financial liabilities as it may be necessary or desirable to complete development and other work before marketing assets for sale to reduce borrowings; and (iii) procure that whenever a Group Company (here a “**Relevant Company**”) pays money to a vendor of some real estate (held directly or indirectly) where such real estate has been acquired on terms permitting the Relevant Company to pay by way of deferred consideration and the vendor has security in respect of that real estate pending payment in full or otherwise of the deferred consideration in circumstances where the vendor has no recourse to any other assets of a Group/Relevant Company in respect of that real estate, as and when the security of any part of that real estate becomes free of such security (each such part being “**Free Real Estate**”) the Relevant Company shall charge within 10 Business Days of the release of the relevant security the Free Real Estate as first ranking security in favour of the Company or the Noteholder; the security so created shall be in respect of the loans to and other obligations incurred by the Relevant Company from the Company or the Noteholder for the purposes of acquiring and making all payments in respect of the real estate referred to above.~~

- 6.1.7 have due regard to the interests of the holders of ZDP Shares as described in the Prospectus;
- 6.1.8 meet the running costs and other expenses of the Noteholder on demand and/or in accordance with the Contribution Agreement; and
- 6.1.9 not transfer any of the ordinary shares in the capital of the Noteholder which it owns from time to time.

7. RECOGNITION OF NOTEHOLDERS

- 7.1 Except as required by law, no person shall be recognised by the Company as holding the Loan Note upon any trust and (except as otherwise provided by these Conditions or by law) the Company shall not be bound by or recognise any interest in the Loan Note except an absolute right to the entirety of it in the holder. The receipt by the Noteholder, or of any joint Noteholder, for any monies payable in respect of the Loan Note shall be a good discharge to the Company, notwithstanding any notice the Company may have, whether express or otherwise, of any right, title, interest or claim of any other person to or in the Loan Note or monies.
- 7.2 The Noteholder will be recognised by the Company as entitled to the Loan Note free from any equity, set-off or counter-claim on the part of the Company against the ~~original or any~~ Noteholder.

8. **REPLACEMENT LOAN NOTE**

If the Loan Note is defaced, worn out, lost or destroyed it may be renewed on such terms as the Directors may determine but otherwise free of charge and (in the case of defacement or wearing out) on delivery up of the old Loan Note.

9. **METHOD OF PAYMENT AND UNCLAIMED MONEY**

Any money payable in respect of the Loan Note, including the principal amount of the Loan Note or any part thereof, may be paid by cheque or warrant sent by post to the registered address of, and at the risk of, the Noteholder or, in the case of joint holders or to persons jointly entitled to the Loan Note by reason of the death or bankruptcy of the Noteholder, to the registered address of that one of them who is first named in the Register in respect of the relevant Loan Note or to such person and to such address as the person entitled may direct in writing. Every cheque or warrant shall be made payable to the order of or to the person entitled thereto or to such other person as the person entitled may direct in writing and payment of the cheque or warrant shall be a good discharge of the Company. Any such money may also be paid by any other method (including bank transfer) which the Directors consider appropriate. Any joint holder or any other person jointly entitled to the Loan Note as aforesaid may give receipts for any money payable in respect of the Loan Note. The principal amount of the Loan Note which has remained unclaimed for a period of ten years, from the due date for payment of the same, shall, if the Directors so resolve, be forfeited and cease to remain owing by the Company.

10. **NOTICES**

10.1 The Company may give any notice, or may send the Loan Note or other document, to the Noteholder either personally or by sending it by post in a prepaid envelope addressed to the Noteholder at his address as shown in the Register or by leaving it at that address. In the case of joint holders of the Loan Note, all notices shall be given to the joint holder whose name stands first in the Register in respect of the joint holding and notice so given shall be sufficient notice to all the joint holders. A Noteholder whose registered address is not within the United Kingdom and who gives to the Company an address within the United Kingdom at which notice may be given to him shall be entitled to have notices given to him at that address, but otherwise no such Noteholder shall be entitled to receive any notice from the Company.

10.2 (A) Any notice to be given to the Noteholder may be given by reference to the Register as it stands at any time within the period of fifteen days before the notice is given and no change in the Register after that time shall invalidate the giving of the notice.

(B) Every person who becomes entitled to the Loan Note shall be bound by any notice in respect of the Loan Note which, before his name is entered in the Register, has been given to the person from whom he derives his title.

10.3 Any notice required to be given to the Company in relation to the Loan Note may be given either personally or by sending it by post to its registered office for the time being.

10.4 A notice sent by post shall be deemed to have been given on the day following that on which it was posted unless it was sent by second class post or there is only one class of post in which it shall be deemed to have been given on the day next but one after it was posted. Proof that the envelope contained the notice was properly addressed, prepaid and posted shall be conclusive evidence that notice was given. A notice given by advertisement shall be deemed to have been served on the day on which the advertisement appears.

