

Annex 2: PART 3: ADDITIONAL SPECIAL CONDITIONS

- Proposed deletions are indicated by text which has been struck through.
- Proposed additions are indicated by red text which is underlined.

PART 3: ADDITIONAL SPECIAL CONDITIONS

Condition 3.1: Corporate Governance

3.1.1 General Corporate Governance Requirements

The Licensee shall at all times when the Licence is in force and for so long as the Licensee remains the holder of the Licence:-

- (a) comply with the terms of its Memorandum and Articles of Association;
- (b) not make any change to its Memorandum and Articles of Association or either of them without the prior written consent of the Authority;
- (c) have non-executive directors of appropriate standing with relevant experience who shall be greater in number than the executive directors;
- (d) refrain from taking any action which would cause the Licensee to be in contravention of any of the Conditions of the Licence; and
- (e) to the extent they are appropriate to the circumstances of the Licensee, comply with the principles and guidance of the UK Corporate Governance Code, as referred to at the relevant time in the Listing Rules of the UK Listing Authority.

3.1.2 Undertaking from Ultimate Holding Company

The Licensee shall procure that the company limited by guarantee which is the ultimate holding company of the Licensee (the "Holding Company"), shall deliver to the Authority not later than seven days after the date on which the Licence comes into full force and effect, a legally enforceable undertaking from the Holding Company in favour of the Authority, which is expressed to remain in force for so long as the Licensee remains the holder of the Licence, in which the Holding Company undertakes to the Authority that:

- (a) it shall comply with, and shall procure that each other holding company (which expression shall in this Part 43 have the meaning given to it in section 1159 of the Companies Act 2006) of the Licensee shall comply with, the terms of its Memorandum and Articles of Association;
- (b) it shall not make, and shall procure that no other holding company of the Licensee shall make, any change to its Memorandum and Articles of Association or either of them without the prior written consent of the Authority;
- (c) it shall, and shall procure that each other holding company of the Licensee shall, exercise all such rights as are available to it to procure that each of it, each other holding company of the Licensee and the Licensee itself shall have non-executive directors of appropriate standing with relevant experience who shall be greater in number than the executive directors;
- (d) it shall refrain, and shall procure that each other holding company of the Licensee shall refrain, from taking any action which would cause the Licensee to be in contravention of any of the Conditions of the Licence;
- (e) it shall continue to be a company limited by guarantee within the meaning of section 3(3) of the Companies Act 2006;
- (f) it shall not permit any change of control of the Licensee or any other holding company of the Licensee to occur without the prior written consent of the Authority;
- (g) to the extent that they are appropriate to the circumstances of the company in question, it shall comply with, and procure that each other holding company of the Licensee complies with, the principles and guidance of the UK Corporate Governance Code, as referred to at the relevant time in the Listing Rules of the UK Listing Authority.

3.1.3 Meaning of Control

For the purposes of this condition, there is a change in the control of the Licensee whenever a person obtains control of the Licensee who did not have control of the Licensee when this Licence was granted; and sub-sections (2), (3) and (4) of Section 450 of the Corporation Tax Act 2010 shall apply for the purpose of determining whether for the purposes of this paragraph a person has or had control of the Licensee, but at any time should no person have control then for the words "the greater part" wherever they occur in said sub-section (3) there shall be substituted the words "one-third or more".

3.1.4 Memorandum and Articles of Association

In this Condition ~~2.293.1~~, a reference to the memorandum and/ or articles of association of the Licensee, the Holding Company or any holding company of the Licensee shall be a reference to its memorandum and/or articles in force at the time the Licence comes into full force and effect as varied from time to time in accordance with the provisions of Condition ~~2.293.1.1(b)~~ or ~~2.293.1.2(b)~~.

3.1.5 Notification of Directors

The Licensee shall:

- (a) inform the Authority without delay when:-
 - (i) a new Director (of it or a holding company) is appointed;
 - (ii) the resignation or removal of a Director takes effect; or
 - (iii) any important change in the functions or executive responsibilities of a Director occurs; and
- (b) notify the Authority of the effective date of the change and, in the case of an appointment, whether the position is executive or non-executive and the nature of any specific function or responsibility.

3.1.6 Accounting Statements

The Licensee shall procure that each Related Company shall prepare annual accounting statements in accordance with UK generally accepted accounting principles (~~UK GAAP~~) and practices or International Financial Reporting Standards (~~IFRS~~) and send a copy of the statements to the Authority within a period of 10 months from the end of the financial year to which the relevant statements relate. Where used in this Condition ~~2.293.1~~ "Related Company" means (a) the Holding Company (b) each other holding company of the Licensee and (c) each Joint Support Company (as defined in Condition 4.1.2).

3.1.7 Prohibition on carrying out any other business

The Licensee shall not carry on any business or activity other than the Approved Business.

3.1.8 Share Ownership

Except with the prior written approval of the Authority, the Licensee shall not own any shares in any company or (other than in the ordinary course of business) any other investments.

3.1.9 Ring Fencing

Without prejudice to Condition 1.12, the Licensee shall not without the written consent of the Authority after disclosure of all material facts by the Licensee to the Authority:

- (a) create any mortgage, charge, pledge, lien or other form of security or encumbrance whatsoever, undertake any indebtedness to any other person or enter into any guarantee of any obligation otherwise than
 - (i) on an arm's length basis;
 - (ii) on normal commercial terms;
 - (iii) for a Permitted Purpose; and
 - (iv) (if the transaction is within the ambit of Condition 1.12.1) in accordance with Conditions 1.12.2 to 1.12.4 of Part 11;

provided that nothing in this Condition shall prevent the Licensee guaranteeing any obligation owed by a Related Company where the obligation has been or is to be incurred for a Permitted Purpose;

- (b) transfer, lease, license or lend any sum or sums, asset, right or benefit to any affiliate or related undertaking of the Licensee otherwise than by way of:
 - (i) repayment of capital or a distribution or other return of assets on a winding-up;
 - (ii) payment properly due for any goods, services or assets provided on an arm's length basis and on normal commercial terms;
 - (iii) a transfer, lease, licence or loan of any asset, right or benefit on an arm's length basis and on normal commercial terms;
 - (iv) repayment of any loan or payment of any interest on such a loan on an arm's length basis and on normal commercial terms;
 - (v) payments for group corporation tax relief;
 - (vi) a loan not prohibited by Condition 2.29; or
- (c) make loans to any affiliate or related undertaking of the Licensee, other than loans for a Permitted Purpose.

3.1.10 Definitions

In this Condition:

"indebtedness"	means all liabilities now or hereafter due, owing or incurred, whether actual or contingent, whether solely or jointly with any other person and whether as principal or surety, together with any interest accruing thereon and all costs, charges, penalties and expenses incurred in connection herewith
"Permitted Purpose"	<p>means the purpose of all or any of the following:-</p> <ul style="list-style-type: none"> (a) the Licensed Business; (b) without prejudice to the generality of paragraph (a), any payment or transaction lawfully made or undertaken by the Licensee in relation to the disposal of or relinquishment of operational control over any relevant asset in accordance with Condition 1.12; (c) without prejudice to the generality of paragraph (a), any payment or transaction lawfully made or undertaken by the Licensee for a purpose within Condition 2.29.