

DATE: 17 OCTOBER 2019

SUBSCRIPTION AGREEMENT

Between

CAPITAL & REGIONAL PLC

and

GROWTHPOINT PROPERTIES LIMITED

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PARTIES

- (1) **CAPITAL & REGIONAL PLC** (incorporated and registered in England and Wales under company registration number 01399411) the registered office of which is at 22 Chapter Street, London SW1P 4NP (the “**Company**”); and
- (2) **GROWTHPOINT PROPERTIES LIMITED** (incorporated and registered in South Africa under company registration number 1987/004988/06) the registered office of which is at The Place, 1 Sandton Drive, Sandown, Sandton, 2196, Republic of South Africa (“**Growthpoint**”).

RECITALS

- (A) The Company is a public company limited by shares whose existing issued share capital is admitted to the premium listing segment of the Official List and to trading on the London Stock Exchange’s main market for listed securities with a secondary listing on the JSE.
- (B) Growthpoint has agreed to subscribe or to procure the subscription in cash for 311,451,258 new Ordinary Shares on the terms and subject to the conditions set out in this Agreement.
- (C) On the date of this Agreement, Growthpoint has announced a firm intention to make a recommended partial cash offer to acquire 219,786,924 existing Ordinary Shares from Shareholders on the terms and subject to the conditions referred to in the Rule 2.7 Announcement.
- (D) Following completion of the Transaction, Growthpoint or its Nominee(s) will hold 531,238,182 Ordinary Shares representing 51% of the enlarged issued share capital of the Company (on the basis that an estimated maximum 3,802,629 Ordinary Shares may be issued in respect of awards which have been made under the Employee Share Schemes).

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS

Definitions

1.1 In this Agreement (including the recitals and schedules), the following definitions apply:

“**Acceptance Form**” means the form for Shareholders to accept the Partial Offer other than through CREST, which will accompany the Offer Document;

“**Admission**” means Admission to Listing and Admission to Trading;

“**Admission and Disclosure Standards**” means the requirements contained in the “**Admission and Disclosure Standards**” issued by the London Stock Exchange containing admission requirements to be observed by companies seeking admission to trading on the London Stock Exchange’s main market for listed securities;

“**Admission to Listing**” means admission to the Official List of the New Shares and such admission becoming effective in accordance with the Listing Rules and evidenced by the making of an announcement satisfying Listing Rule 3.2.7;

“**Admission to Trading**” means admission to trading of the New Shares on the London Stock Exchange’s main market for listed securities and such admission becoming effective in accordance with the Admission and Disclosure Standards;

“**Agreed Form**” means in a form agreed by or on behalf of the parties and signed for the purpose of identification by or on behalf of the Company and by or on behalf of Growthpoint;

“**Articles of Association**” means the articles of association of the Company as adopted from time to time;

“**Bank Account**” means the Company’s Solicitors’ bank account as follows:

Account Name: CMS CMNO LLP Client Account

Account Number: 00230949

Bank Name: Lloyds Bank Plc

Sort Code: 30-00-09;

“**Banks**” means each of Numis Securities Limited and J.P. Morgan Cazenove;

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

“**Business Day**” means a day other than Saturday, Sunday or a day on which banks are authorised to close in London or Johannesburg for general banking business;

“**Code**” means the UK City Code on Takeovers and Mergers issued from time to time by the Panel;

“**Companies Act**” means the Companies Act 2006;

“**Company’s Solicitors**” means CMS Cameron McKenna Nabarro Olswang LLP of Cannon Place, 78 Cannon Street, London EC4N 6AF;

“**Conditions**” means the conditions set out in clause 3;

“**CREST**” means the relevant systems for the paperless settlement of trades in securities and the holding of uncertificated securities operated by Euroclear UK and Ireland in accordance with the CREST Regulations;

“**CREST Regulations**” means the Uncertificated Securities Regulations 2001 (SI 2001 No 3755);

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

“**Employee Shares Schemes**” means the Capital & Regional plc Combined Incentive Plan and the Capital & Regional plc 2018 Long Term Incentive Plan;

“**Euroclear UK & Ireland**” means Euroclear UK & Ireland Limited;

“**FCA**” means the UK Financial Conduct Authority;

“**Form of Approval**” means the form of approval relating to the Partial Offer;

“**Form of Proxy**” means the voting form of proxy for use in connection with the General Meeting;

“**FSMA**” means the Financial Services and Markets Act 2000;

“**General Meeting**” means the general meeting of the Company at which, inter alia, the Resolutions will be proposed, notice of which will be set out in the Prospectus;

“**Interim Dividend**” has the meaning given in the Rule 2.7 Announcement;

“**Java**” means Java Capital Proprietary Limited;

“**JSE**” means the Johannesburg Stock Exchange, being the exchange operated by JSE Limited, licensed as an exchange under the South African Financial Markets Act 2012, and a public company incorporated under the laws of the Republic of South Africa;

“**JSE Application**” means the application for South African Admission;

“**Listing Rules**” means the latest edition of the listing rules made by the FCA pursuant to Part VI of FSMA;

“**London Stock Exchange**” means London Stock Exchange plc;

“**New Shares**” means the 311,451,258 new Ordinary Shares which are to be subscribed for by, or on behalf of, Growthpoint on the terms and conditions of this Agreement;

Nominee” means any person that Growthpoint shall nominate to subscribe for the New Shares or any of them by way of written direction, such person being a general partner that will hold such New Shares and act on behalf of a limited partnership:

- (a) in which each limited partner is a wholly owned subsidiary of Growthpoint; and
- (b) in respect of which: (i) those limited partners hold all of the economic rights, save for the right of the general partner to participate in not more than 1% of the net income profits of the limited partnership and (ii) Growthpoint is appointed as attorney to exercise all of the voting rights in respect of the New Shares held by such partnership,

and “**Nominee(s)**” shall mean all or any such persons;

“**Offer Document**” has the meaning given in the Rule 2.7 Announcement;

“**Official List**” means the official list of the FCA;

“**Ordinary Shares**” means ordinary shares of one pence (£0.01) each in the capital of the Company;

“**Panel**” means the UK Panel on Takeovers and Mergers;

“**Partial Offer**” means the proposed recommended partial cash offer (in accordance with Rule 36 of the Code) by Growthpoint to acquire 219,786,924 existing Ordinary Shares from Shareholders;

“**Prospectus**” means the combined prospectus (as required by FSMA and the Prospectus Regulation Rules) and circular in a form approved by the FCA to be published by the Company following the date of this Agreement giving details regarding the Transaction and incorporating a notice convening the General Meeting;

“**Prospectus Regulation Rules**” means the latest edition of the Prospectus Regulation Rules issued by the FCA and made under Part VI of FSMA;

“**Register**” means the UK register of members of the Company;

“**Registrars**” means Equiniti Limited and Link Market Services South Africa Proprietary Limited;

“**Resolutions**” means the resolutions to be proposed at the General Meeting which are required to approve the Transaction, as described in the Rule 2.7 Announcement;

“**Rule 2.7 Announcement**” means the press announcement released by Growthpoint on the date of this Agreement pursuant to Rule 2.7 of the Code in relation to the Partial Offer;

“**Shareholders**” means holders of Ordinary Shares;

“**South African Admission**” means the admission of the new shares to the list maintained by the JSE of securities admitted to trading;

“**Subscription**” means the proposed subscription by Growthpoint for New Shares in accordance with the terms and conditions of this Agreement;

“**Subscription Date**” means the date of Admission, falling no more than six (6) Business Days after the date of the giving of the notice by Growthpoint to the Company referred to in clause 5.5;

“**Subscription Price**” means £0.25 per New Share;

“**Taxable Profits**” means “UK profits” as defined in section 530(2) of the Corporation Tax Act 2010;

“**Transaction**” means the Partial Offer and the Subscription;

“**UK Corporate Governance Code**” means the UK Corporate Governance Code issued by the Financial Reporting Council from time to time in force;

“**undertaking**” means an undertaking as defined in section 1161 of the Companies Act; and

“**Warranties**” means the warranties made by Growthpoint in clause 7.1 and made by the Company in clause 7.2.

2. INTERPRETATION

2.1 Unless otherwise expressly stated, the rules of interpretation set out in this clause 2 apply in this Agreement:

- 2.1.1 the contents page, headings and sub-headings in this Agreement are for ease of reference only and do not affect the meaning of this Agreement;
- 2.1.2 words in the singular include the plural and vice versa;
- 2.1.3 a reference to a party is to a party to this Agreement;
- 2.1.4 general words do not have a restrictive meaning because they are preceded or followed by specific words indicating a particular type, class or category;
- 2.1.5 any words following the terms “**include**” and “**including**” or any similar expression are illustrative and do not limit the meaning of the words preceding those terms;
- 2.1.6 a reference to a clause is to a clause of this Agreement;
- 2.1.7 a reference to a person includes an individual, firm, partnership, company, association, organisation or trust (in each case whether or not having a separate legal personality);
- 2.1.8 a reference to a document in this Agreement is to that document as amended, varied or novated from time to time as permitted by the terms of that document;
- 2.1.9 a reference to a provision of any statute or other legislation is a reference to that statute or legislation as amended, modified, consolidated, re-enacted or replaced from time to time and all subordinate legislation (and relevant codes of practice) made under the

relevant statute or other legislation except to the extent that any amendment or re-enactment coming into force after the date of this Agreement would increase or extend the liability of any party to any other person under this Agreement;

2.1.10 a reference to writing shall include any method of reproducing words in a legible and permanent form; and

2.1.11 any references to time are to London, England time.

3. CONDITIONS

3.1 The obligations of Growthpoint under clause 4 of this Agreement (other than clause 4.2) are conditional on:

3.1.1 the passing (without amendment) of the Resolutions at the General Meeting by no later than the 22nd day after the expected date of the General Meeting which will be set out in the Prospectus (or such later date as Growthpoint and the Company may agree, subject to the requirements of the Panel);

3.1.2 the Partial Offer having become or being declared unconditional in all respects (other than any condition relating to Admission or South African Admission);

3.1.3 the FCA having acknowledged that its requirements for Admission to Listing have been approved and will become effective on the Subscription Date and the London Stock Exchange having acknowledged that its requirements in respect of the Admission to Trading have been complied with; and

3.1.4 the JSE having acknowledged that its requirements for South African Admission have been approved and will become effective on the Subscription Date.

3.2 Notwithstanding any other term or provision of this Agreement, Growthpoint is under no obligation under this Agreement or otherwise to complete any subscription for Ordinary Shares unless immediately following the Subscription Date it (or its Nominee(s)) will own, or be interested in, in aggregate at least 51% of the enlarged issued share capital, on the basis described in recital (D), of the Company.

3.3 Each party shall keep the other informed of progress and development with regard to satisfaction of the Conditions, so far as it is reasonably able, it being acknowledged and agreed that: (i) the Company is responsible for satisfying and the Company will use reasonable endeavours to procure the satisfaction of the Condition in clause 3.1.1 as soon as reasonably practicable and the satisfaction of the Conditions in clauses 3.1.3 and 3.1.4 and (ii) both parties will use all of their respective reasonable endeavours to satisfy the Condition in clause 3.1.2. The Company shall notify Growthpoint in writing when the Conditions at clauses 3.1.3 and 3.1.4 have been satisfied.

3.4 If the Conditions have not been satisfied before 5.30 p.m. on 28 February 2020, this Agreement shall automatically terminate and the parties shall have no further rights or obligations under this Agreement other than accrued rights and obligations at that time, save that clauses 8, 11, 19 and 20 shall remain binding on the parties in accordance with its terms.

4. SUBSCRIPTION

4.1 Growthpoint hereby irrevocably agrees, subject to: (i) the Conditions being satisfied; (ii) clause 3.2 and (iii) the Company having provided to Growthpoint a certified copy of the resolution of

the Board or a duly authorised committee referred to in clause 6.1.1, to subscribe or to procure that its Nominee subscribes in cash for the New Shares at the Subscription Price on the Subscription Date upon and subject to the terms and conditions of this Agreement and to the Articles of Association.

4.2 Growthpoint hereby irrevocably agrees, subject to: (i) clause 3.2 and (ii) the Company having provided to Growthpoint a certified copy of the resolution of the Board or a duly authorised committee referred to in clause 6.1, to pay the subscription monies for the New Shares to be received by no later than 3.30 p.m. two Business Days immediately preceding the Subscription Date by way of:

- (a) payment to the Bank Account; or
- (b) input, or procuring the input by its custodian of, its delivery versus payment instructions in CREST,

and the Company shall notify Growthpoint in writing by no later than three (3) Business Days prior to the Subscription Date whether payment under this clause 4.2 shall be effected by way of paragraph (a) or (b) (and in the case of (b), provide the relevant matching CREST instructions).

4.3 Receipt of such monies by the Company or the Company's Solicitors (or as the parties shall otherwise agree) pursuant to clause 4.2 shall satisfy Growthpoint's obligations under this Agreement to pay for the New Shares to the extent of the monies actually received, and pending the Subscription Date such monies shall be held by the Company's Solicitors to Growthpoint's order (provided that Growthpoint covenants not to direct that the monies be transferred from the Bank Account prior to the Subscription, unless any of the Conditions are not satisfied) so that, upon Admission, such monies shall be automatically released to the Company and applied only to fund the Subscription.

4.4 Subject to the Conditions having been satisfied, Growthpoint consents to its name (or the name of its Nominee(s)) being entered in the Register in respect of the New Shares and agrees that it or its Nominee(s) will take the New Shares with the benefit of the rights and subject to the restrictions set out in the Articles of Association.

4.5 Each of Growthpoint and the Company acknowledges that, with respect to the transactions contemplated in this Agreement, Growthpoint is acting solely in the capacity of an arm's length contractual counterparty to the Company.

4.6 Subject to clause 4.3, the parties agree that the Subscription shall, when made, be made unconditionally and shall not be subject to any rights of recovery, rescission, set-off or counterclaim or similar rights or remedies by Growthpoint.

5. KEY DOCUMENTATION AND ACTIONS FOR THE SATISFACTION OF THE CONDITIONS

5.1 The parties acknowledge and agree that the Offer Document, the Acceptance Form, the Form of Approval (if required), the Prospectus and the Form of Proxy (and various related ancillary documentation) are not in final form at the date of this Agreement. Accordingly, in order for the Conditions to be satisfied as soon as reasonably practicable, the parties agree to cooperate with one another (and procure that their respective professional advisers cooperate with one another) in order to finalise all such documentation to the mutual satisfaction of both parties and obtain the

- approval of the Panel (in the case of the Offer Document) and the FCA and the JSE (in the case of the Prospectus) as soon as reasonably practicable following the date of this Agreement.
- 5.2 For the purposes of discharging their respective obligations under clause 5.1, the parties shall act reasonably, co-operatively and in good faith.
- 5.3 Growthpoint hereby undertakes to the Company that it will:
- 5.3.1 subject to the prior receipt from the Panel of formal approval of the Offer Document, publish and despatch the Offer Document, the Form of Approval (if required) and the Acceptance Form to each Shareholder eligible to receive such documents (as set out in the Offer Document), in accordance with the timetable and terms and conditions set out in the Rule 2.7 Announcement (with any modifications or amendments to such timetable, terms and conditions as may be required by the Panel and agreed in writing with the Company);
 - 5.3.2 not withdraw the Partial Offer (other than in accordance with the terms and conditions of the Partial Offer and as permitted by the Panel);
 - 5.3.3 and will procure that where applicable its Nominee will, agree, approve, execute, sign and deliver all documents and perform all reasonable acts and things necessary to give full effect to this Agreement and the Subscription including (so far as reasonably within its control) obtaining all necessary approvals, consents, authorisations, filings and registrations which are necessary under any applicable laws or regulations; and
 - 5.3.4 provide the Company with the relevant CREST account details as set out in Schedule 2 by the date falling on or before the date of publication of the Offer Document.
- 5.4 The Company hereby undertakes to Growthpoint that it will:
- 5.4.1 subject to the prior receipt from the FCA and the JSE of formal approval of the Prospectus, publish the Prospectus in accordance with the Prospectus Regulation Rules and despatch the Prospectus and Form of Proxy to each Shareholder eligible to receive such documents (as set out in the Prospectus) with the intention that it is despatched, subject to receipt of such approval, to Shareholders at the same time as and to accompany the Offer Document and in accordance with the timetable referred to in clause 5.3.1; and
 - 5.4.2 agree, approve, execute, sign and deliver all documents and perform all reasonable acts and things necessary to give full effect to this Agreement and the Subscription including (so far as reasonably within its control) obtaining all necessary approvals, consents, authorisations, filings and registrations which are necessary under any applicable laws or regulations.
- 5.5 The Company confirms to Growthpoint that, once (a) the Condition in clause 3.1.1 is satisfied, (b) the Partial Offer has been declared unconditional as to acceptances and (c) Growthpoint has given notice in writing to the Company requesting the Company to apply for Admission (it being acknowledged and agreed by Growthpoint that such notice must be given on or before the sixth Business Day before the last date on which the Partial Offer can be declared unconditional in all respects under Rule 31.7 of the Code) and that, having given such notice, the final date Growthpoint can declare the Partial Offer wholly unconditional (save only for Admission) is the Business Day immediately preceding the Subscription Date), the Company shall as soon as

reasonably practicable (and, in the case of clauses 5.5.1 to 5.5.3, in any event by the end of the third Business Day after receipt of such notice):

- 5.5.1 make the applications for Admission;
 - 5.5.2 procure that Java makes the JSE Application on its behalf;
 - 5.5.3 make an application to Euroclear UK & Ireland to admit the New Shares as participating securities within CREST with effect by no later than Admission; and
 - 5.5.4 take all reasonable steps to ensure that the New Shares are admitted as participating securities to CREST upon or prior to Admission and that the existing Ordinary Shares and the New Shares continue to be participating securities.
- 5.6 Until the earlier of the Subscription Date and the termination of this Agreement pursuant to clause 3.4, the Company undertakes to conduct its business in the ordinary course and in accordance with its publicly stated current strategy.

6. ALLOTMENT

- 6.1 On or before the third Business Day prior to the Subscription Date:
- 6.1.1 the Board or a duly authorised committee of the Board shall pass a minute in the Agreed Form to resolve to allot and issue, conditionally only upon Admission and South African Admission and receipt of payment pursuant to clause 4.2, the New Shares to Growthpoint or its Nominee(s) on terms that they shall be fully paid and shall rank in full for all dividends and other distributions declared after their date of issue and otherwise pari passu in all respects with the existing Ordinary Shares (excluding for the avoidance of doubt the Interim Dividend provided such dividend does not exceed 1p per Ordinary Share), and shall upon their issue be free from all encumbrances; and
 - 6.1.2 the Company shall deliver to Growthpoint a certified copy of the resolution of the Board or a duly authorised committee referred to in clause 6.1.1.
- 6.2 On Admission, and subject to receipt of payment pursuant to clause 4.2, the Company shall:
- 6.2.1 issue the New Shares to Growthpoint or its Nominee(s);
 - 6.2.2 procure that the Registrars register (without registration fee) Growthpoint or its Nominee(s) as the holder(s) of the New Shares; and
 - 6.2.3 using the details provided by Growthpoint in accordance with clause 5.3.4, procure that the Registrar causes the New Shares to be credited by Euroclear UK & Ireland to the CREST account of Growthpoint or its Nominee(s).

7. WARRANTIES AND UNDERTAKINGS

- 7.1 Growthpoint warrants to the Company in the terms of the information set out in Schedule 2 and the Warranties set out in Schedule 3 as at the date of this Agreement and as at Admission with reference to the facts which shall then exist.
- 7.2 The Company warrants to Growthpoint in the terms of the statements below as at the date of this Agreement and as at Admission with reference to the facts which shall then exist:

- 7.2.1 the Company is duly incorporated and validly existing under the laws of England and Wales;
- 7.2.2 the Company has taken all necessary corporate action to authorise the execution and delivery of this Agreement and, subject to the Conditions being satisfied, the performance of its obligations under this Agreement;
- 7.2.3 the Company has the power to enter into this Agreement and, subject to the Conditions being satisfied, to perform the obligations expressed under it to be assumed by the Company; and.
- 7.2.4 the execution and delivery of, and, subject to the Conditions being satisfied, the performance by the Company of its obligations under this Agreement will not:
- (a) result in a breach of any provision in its Articles of Association or by-laws;
 - (b) result in a breach of, or constitute a default under, any instrument to which the Company is a party or by which the Company is bound; or
 - (c) result in a breach of any order, judgment under, any instrument to which the Company is a party or by which the Company is bound; and
- 7.3 Each of the Warranties shall be construed as a separate and independent provision and none of the Warranties shall be limited or restricted by reference to or inference from the terms of any other warranty or provision of this Agreement.
- 7.4 Each of the Company and Growthpoint undertakes to notify the other in writing as soon as practicable if it comes to its knowledge at any time prior to Admission that any of the Warranties it has given to the other party proves to have been untrue or inaccurate or misleading when made and/or have ceased to be true or accurate or have become misleading by reference to the facts and circumstances from time to time subsisting and/or that any fact, matter.
- 7.5 The Company undertakes to Growthpoint that with effect from Admission and for so long as Growthpoint and its Nominee(s) hold in aggregate an interest in 35% or more of the aggregate voting rights in the Company from time to time, the dividend policy of the Company will be to distribute on a semi-annual basis (in the approximate proportions of 45 / 55 and in that order in respect of each financial year) not less than approximately 90% of the Company's "EPRAs Earnings", in line with the Company's requirements to distribute at least 90% of its Taxable Profits under the UK REIT regime. Subject to the requirements of the Companies Act, all such dividends shall be declared at announcement of the relevant half yearly or annual financial results and paid by the end of October and May respectively in each calendar year, the latter, being the Final Dividend, subject to shareholder approval at the Company's AGM. Such dividend policy shall only be amended with the written consent of Growthpoint.
- 7.6 The Company undertakes to Growthpoint that it will apply the aggregate proceeds from the Subscription as follows:
- 7.6.1 a minimum of £50m will be deployed to reduce and/or restructure existing debt arrangements; and
 - 7.6.2 the balance of the proceeds from the Subscription will be used for assisting on funding capital expenditure to allow the Company to progress and accelerate existing pipeline capital expenditure projects which are expected to both help drive future income growth

and reposition the assets in line with the Company's published Community Shopping Centre strategy.

7.7 The Company recognises that following Admission it will be a subsidiary of Growthpoint and as such will strive to conduct its business with similar rigour and discipline as Growthpoint conducts its business consistent with UK corporate governance standards and in particular the UK Corporate Governance Code. Accordingly, with effect from Admission, the Company will strive as soon as is reasonably commercially practicable:

7.7.1 obtain an investment grade rating from Moody's Investor Services; and

7.7.2 reduce its loan to value ratio to be in line with that of Growthpoint from time to time (being an LTV of 35% to 45%) and to implement Growthpoint's treasury policy, as may be amended from time to time, subject to such commercial realities as may be relevant to the Company and the United Kingdom (it being acknowledged by the Company that Growthpoint's treasury policy as at the date of this Agreement has been made available to the Company),

in each case for so long only as Growthpoint and its Nominee(s) hold in aggregate an interest in 35% or more of the aggregate voting rights in the Company from time to time.

7.8 The parties hereby agree that, with effect from Admission, the provisions of clauses 6 (Non-Solicitation) and 18 (Standstill Agreement) of the confidentiality agreement between the parties dated 7 August 2019 shall automatically terminate and, save in respect of any prior breach of the provisions of those clauses, no party shall have any rights or obligations under those clauses following such termination.

8. CONFIDENTIALITY AND ANNOUNCEMENTS

8.1 Save for the inclusion in the Prospectus, the Offer Document, the Rule 2.7 Announcement (and any other document required in connection with the Transaction) of the details of this Agreement, and, except where this document is required to be available for inspection, each party shall keep confidential and shall not disclose to any third party (other than their respective professional advisers) the subject matter of this Agreement or of any of the arrangements or proposed arrangements to which it relates unless such disclosure is required by law, the Panel, the London Stock Exchange, the JSE, the FCA or pursuant to any other legal or regulatory requirements.

8.2 Save as set out in the Rule 2.7 Announcement or as otherwise required by law or regulation, no party shall issue any announcement relating to or in connection with this Agreement or any matters contained in it, without the prior written consent of the other.

9. VARIATION

9.1 No variation of this Agreement will be effective unless made in writing and signed by or on behalf of each of the parties.

10. TIME

10.1 Time shall be of the essence in relation to this Agreement both as regards the times, dates and periods mentioned in it and as regards any times, dates or periods which may, by written agreement between the parties, be substituted for them, subject always to the rules and requirements of any regulatory authority.

11. ENTIRE AGREEMENT

- 11.1 This Agreement and the documents referred to in this Agreement contain the whole agreement between the parties relating to the matters contained in this Agreement and any such document and supersedes any previous agreement (whether oral or in writing) between the parties relating to those matters.
- 11.2 Except as required by statute, no terms will be implied (whether by custom, usage, course of dealing or otherwise) into this Agreement.
- 11.3 Each party acknowledges that in entering into this Agreement it has not relied on any express or implied representation (including any made negligently), assurance, undertaking, collateral agreement, warranty or covenant which is not set out in this Agreement.
- 11.4 In connection with the subject matter of this Agreement, each party waives all rights and remedies (including any right or remedy based on negligence) which might otherwise be available to it in respect of any express or implied representation, assurance, undertaking, collateral agreement, warranty or covenant which is not set out in this Agreement.
- 11.5 Nothing in this clause 11 limits or excludes any liability for fraud.

12. PAYMENTS

- 12.1 Any payment to be made by Growthpoint hereunder shall be made in pounds sterling in immediately available funds without any set-off or counterclaim and (except as required by law) without any deduction or withholding whatsoever.

13. WAIVER AND REMEDIES

- 13.1 A party can only waive a right or remedy provided in this Agreement or by law by express written notice.
- 13.2 If a party delays or fails to exercise any power, right or remedy under this Agreement, this will not operate as a waiver of that power, right or remedy, nor will it impair or prejudice it.
- 13.3 Any single or partial exercise or waiver of any power, right or remedy will not preclude its further exercise or the exercise of any other power, right or remedy.
- 13.4 All rights of any person contained in this Agreement are in addition to all rights vested or to be vested in it pursuant to common law or statute.

14. SEVERANCE

- 14.1 Each of the provisions of this Agreement is distinct and severable from the others. If at any time one or more of those provisions is or becomes invalid, unlawful or unenforceable (whether wholly or partly), the validity, lawfulness and enforceability of the remaining provisions (or the same provision to any other extent) will not be affected or impaired in any way.
- 14.2 The parties may agree to amend this Agreement in order to ensure its terms are valid, lawful and enforceable.

15. SUCCESSORS

15.1 This Agreement shall be binding on and enure to the benefit of the lawful successors of each party and every other person having rights under it by virtue of the Contracts (Rights of Third Parties) Act 1999.

16. ASSIGNMENT

16.1 None of the parties nor any other person with enforceable rights under this Agreement shall assign or purport to assign any of its rights or benefits under this Agreement.

17. THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

17.1 Save for the rights of any Nominee(s) under clause 6, nothing in this Agreement confers any rights on any person under the Contracts (Rights of Third Parties) Act 1999.

17.2 The parties may without the consent of any other person, agree to amend, vary or terminate this Agreement in such a way as may affect any rights or benefits of any other person under this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999.

18. COUNTERPARTS

18.1 The parties may execute this Agreement in any number of counterparts, each of which when executed and delivered will be an original but all of which when taken together will constitute one agreement.

18.2 If this Agreement is executed in more than one counterpart, it shall be deemed to be exchanged and shall have effect when:

18.2.1 each party has signed a counterpart of this Agreement; and

18.2.2 each of the counterparts has been dated.

19. NOTICES

19.1 Any notice or other communication to be given or made under or in connection with this Agreement:

19.1.1 must be in English, legible and in writing;

19.1.2 must be delivered by hand or by reputable international courier or sent as a pdf attachment to an email to the party to whom it is to be given as follows:

(a) the Company at:

Address: Registered Office as set out at the beginning of this Agreement

Attention: Company Secretary

Email: stuart.wetherly@capreg.com

(b) Growthpoint at:

Address: The Place, 1 Sandton Drive, Sandown, Sandton, 2196,
Republic of South Africa

Attention: Group CEO, with a copy to the Group Head of Legal.

or at such other address as the relevant party may from time to time specify by notice to the other party given under this clause 19.1 provided that such notification shall only be effective on the date specified in the notification as the date on which the change is to take place or, if no date is specified, the date falling five Business Days after notice of any change is deemed to have been delivered; and

- 19.1.3 must not be sent by fax or any other form of non-permanent display and will not be effective if made that way.
- 19.2 Any notice or other communication sent by post shall be sent (if posted to and from a place within the United Kingdom) by pre-paid first class post or (if posted to or from a place outside the United Kingdom) by pre-paid airmail.
- 19.3 Any notice or other communication will be deemed to have been given:
- 19.3.1 if delivered by hand, at the time and on the date of delivery if delivered during a Business Day, or at the start of the next Business Day if delivered at any other time;
- 19.3.2 if delivered by reputable international courier to and from a place within the United Kingdom, on signature of a delivery receipt; and
- 19.3.3 if sent as a pdf attachment to an email, at the time the email is sent, if delivered during a Business Day, or at the start of the next Business Day if delivered at any other time.
- 19.4 In proving delivery of the communication, it shall be sufficient to show that delivery by hand was made or, in the case of delivery by international courier, that the envelope containing the communication was properly addressed and sent by reputable international courier or that the email was recorded in the IT system of the sender as having been sent.
- 19.5 The provisions of this clause 19 shall not apply to the service of any claim form, application notice, order, judgement or other document relating to or in connection with any proceedings or any other documents in any legal action.

20. LAW AND JURISDICTION

- 20.1 The validity, construction and performance of this Agreement and any claim, dispute or matter (whether contractual or non-contractual) arising under or in connection with this Agreement or its enforceability shall be governed by and construed in accordance with the law of England and Wales.
- 20.2 Subject to clause 20.3, each party irrevocably submits to the exclusive jurisdiction of the courts of England and Wales over any claim, dispute or matter arising under or in connection with this Agreement or its enforceability or the legal relationships established by this Agreement (including non-contractual disputes or claims) and waives any objection to proceedings being brought in such courts or on the grounds that proceedings have been brought in an inconvenient forum.
- 20.3 Any disputes arising out of or in connection with clauses 7.5 and 7.6 of this Agreement shall be determined in accordance with the Rules of the London Court of International Arbitration (the "Rules") which shall be deemed to be incorporated herein by reference. The seat of arbitration

shall be in London, United Kingdom and the arbitration shall be conducted and the award rendered, in English. The number of arbitrators shall be three and shall be appointed in accordance with the Rules. The parties shall provide their nominations for arbitrators within 30 (thirty) days following service of the request for arbitration.

- 20.4 The parties agree that information concerning any arbitration, including, without limitation, information concerning any arbitration award, shall be treated as confidential and not disclosed to any third party without the consent in writing of all of the parties unless:
- 20.4.1 the information has come into the public domain other than through the fault of the party disclosing it;
 - 20.4.2 such disclosure is required by law or by any securities exchange or regulatory or governmental body having jurisdiction over the party disclosing the information, whether or not the requirement has the force of law, or either of the parties determines in good faith and with the benefit of supporting written independent advice from a reputable law firm or financial adviser that such information is material for immediate disclosure to investors;
 - 20.4.3 such disclosure is necessary in order to establish or protect any legal right of the party disclosing the information; or
 - 20.4.4 the disclosure is limited to the directors and officers, professional advisers, auditors, bankers or insurers of the person disclosing the information, acting as such, or to a person intended to be called as a witness in the arbitration by the person disclosing the information, for the purpose of preparing his witness statement, but provided that in any such case a written confidentiality undertaking in a form equivalent to this clause has first been obtained from such person.
- 20.5 Growthpoint irrevocably appoints Intertrust (UK) Limited, 35 Great St. Helen's, London, EC3A 6AP, United Kingdom as its agent to receive on its behalf in England or Wales service of process in England. Such service shall be marked for the attention of UK Process Agent Team and deemed completed on delivery to that agent (whether or not it is forwarded to and received by Growthpoint). If for any reason that agent ceases to be able to act as agent or no longer has an address in England or Wales, Growthpoint shall promptly appoint a replacement agent and shall give notice to the Company of the new agent's name and address within England and Wales. Any such change in agent for service shall take effect on the fifth Business Day after the day on which notice of the change is actually received by the Company or (if later) on the date (if any) specified in the notice.

This Agreement has been entered into on the date stated at the beginning of it.

SCHEDULE 2
GROWTHPOINT SUBSCRIPTION DETAILS

CREST account name: [e.g. State Street Nominees Limited]

CREST Participant ID: [not more than 5 figures alpha/numeric]

Member Account ID: [undesignated or not more than 8 figures alpha/numeric]

SCHEDULE 3

GROWTHPOINT WARRANTIES

1. Growthpoint is duly incorporated and validly existing under the laws of the Republic of South Africa.
2. Growthpoint has taken all necessary corporate action to authorise the execution and delivery of this Agreement and the performance of its obligations under this Agreement.
3. Growthpoint has the power to enter into this Agreement and to perform or to procure the performance of the obligations expressed under it to be assumed by Growthpoint.
4. The execution and delivery of, and the performance by Growthpoint of its obligations under this Agreement will not:
 - a) result in a breach of any provision in its articles of incorporation or by-laws;
 - b) result in a breach of, or constitute a default under, any instrument to which Growthpoint is a party or by which Growthpoint is bound; or
 - c) result in a breach of any order, judgment under, any instrument to which Growthpoint is a party or by which Growthpoint is bound.
5. Growthpoint or its Nominee(s) is to subscribe and hold the New Shares for the account of Growthpoint or its Nominee(s) (as the case may be) by way of investment (and in the case of any Nominee, as general partner on behalf of a limited partnership that meets the requirements in limbs (a) and (b) of the definition of “Nominee”) and not with a view to any distribution or resale and no arrangements are in place for any such distribution or resale.
6. Growthpoint understands and accepts that the Banks are not acting for Growthpoint; the Banks are acting solely for the Company in relation to the Transaction and in no other capacity.
7. Growthpoint hereby agrees and acknowledges that:
 - a) its agreement to subscribe for New Shares is not by way of acceptance of a public offer made or to be made in the Prospectus but is by way of a collateral contract; and
 - b) its decision to subscribe, and subscription for, the New Shares is based solely on the information, Warranties, undertakings, acknowledgements and terms and conditions contained in this Agreement hereby acknowledges that it is not relying on any representation or Warranty or agreement by the Company, the Banks or any of the Company’s or the Banks’ respective directors, employees, officers or agents except as expressly set out or referred to in this Agreement.
8. Growthpoint agrees: (i) that it has obtained all necessary consents and authorities to enable Growthpoint to give its commitment to subscribe for the number of New Shares specified in this Agreement; and (ii) it has the funds available to do so.
9. The Banks do not owe any fiduciary or other duties or responsibilities to Growthpoint for providing the protections afforded to their clients nor for providing advice in relation to the Transaction to Growthpoint in respect of any representations, warranties, undertakings or indemnities in the documents referred to in clause 5.1 or the contents of the terms and conditions contained in this Agreement.

10. In relation to the Subscription, Growthpoint has complied with its obligations under all applicable legislation and regulation concerning the prevention of money laundering (the “**Regulations**”) and Growthpoint will provide any such information and provide such assistance to the Company and/or its Registrars in order to verify Growthpoint’s or its nominees’ identity which the Company and/or its Registrars may reasonably require in compliance with the Regulations. Definitive certificates in respect of the New Shares may be retained or, where appropriate, delivery of the New Shares to Growthpoint or its Nominee(s) in uncertificated form, may be retained at the Registrars, as the case may be, absolute discretion.
11. Growthpoint understands that the New Shares have not been and will not be registered under the applicable laws of Australia, Canada, Guernsey, Japan, Jersey, Hong Kong Special Administrative Region of the People’s Republic of China, Switzerland and the United States and any other jurisdiction where the availability of the Transaction would breach any applicable law (each an “**Excluded Territory**”) and any such New Shares may not be offered or sold, exercised, resold, transferred or delivered, directly or indirectly, in or into any Excluded Territory unless registered under such laws or offered in a transaction exempt from, or not subject to the registration requirements of such laws.
12. Growthpoint has not and will not distribute or publish this Agreement or any document referred to herein or any advertisement or other offering material in relation to the New Shares directly or indirectly in, into or within any of the Excluded Territories.
13. In relation to the Subscription, Growthpoint has observed the laws of all relevant jurisdictions, has obtained any requisite governmental exchange controls or other consents, has complied with all relevant formalities and has paid or will pay when due any issue, transfer or other taxes in any territory, and Growthpoint has not taken any action which, so far as it is aware, will or may result in either of the Banks or the Company being in breach of the legal or regulatory requirements of any jurisdiction.
14. Growthpoint has complied and will comply with all applicable provisions of FSMA with respect to anything done by Growthpoint in relation to the Subscription in, from or otherwise involving the United Kingdom.
15. None of Growthpoint, its Nominees nor any of its affiliates (as defined in Rule 405 under the US Securities Act 1933 as amended (the “**US Securities Act**”) subscribing for New Shares is a “U.S. person” as such term is defined by Regulation S under the US Securities Act and each of Growthpoint, its Nominees and its affiliates is acquiring New Shares in an “offshore transaction” as defined in and in accordance with Regulation S under the US Securities Act.

Signed by [REDACTED]
a duly authorised signatory for and on
behalf of **CAPITAL & REGIONAL PLC**



Position (in BLOCK CAPITALS)

Signed by)
a duly authorised signatory for and on)
behalf of **GROWTHPOINT PROPERTIES**)
LIMITED)

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.....
Position (in BLOCK CAPITALS)

Signed by)
a duly authorised signatory for and on)
behalf of **CAPITAL & REGIONAL PLC**)

.....
Position (in BLOCK CAPITALS)

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LIMITED)

.....
Position (in BLOCK CAPITALS)

