

Shaftesbury

To: Capital & Counties Properties PLC
Regal House
14 James Street
London WC2E 8BU

7 December 2021

Dear Sir/Madam,

Project Elements

In connection with the parties' consideration of a potential combination between Shaftesbury PLC ("**Shaftesbury**") and Capital & Counties Properties PLC ("**Capco**") by way of acquisition by either party, or any of their respective group undertakings, of the other party, whether implemented by means of a takeover in accordance with the Code or other transaction structure (the "**Transaction**"), the parties are prepared to make certain confidential information available to each other on the terms of this letter.

In consideration of the mutual disclosure of certain Confidential Information, each of the parties agrees and undertakes to the other in relation to the other's Confidential Information in the terms of this letter.

Definitions

1. In this letter:

acting in concert shall be construed in accordance with the Code and **act in concert** shall be construed accordingly;

Authorised Recipients means each of the parties' Connected Persons who receives Confidential Information pursuant to Clause 4;

Code means the City Code on Takeovers and Mergers;

Confidential Information means:

- a) all information supplied by or on behalf of either party or any of its Connected Persons to the other party or any of its Connected Persons, whether before, on or after the date of this letter, in connection with the Transaction or information otherwise related to the other party or any of its group undertakings, together with any analyses, reports or documents which contain or reflect, or are derived or generated from, any such information; and
- b) the existence of the Transaction, the existence, status or progress of any negotiations or discussions relating to the Transaction, the terms of any offer relating to the Transaction and the existence and contents of this letter,

in each case in whatever form or medium (including written, electronic, visual and oral) such information is recorded or kept in;

Connected Persons means, in relation to a party:

- a) each of its group undertakings; and

- b) its and each of its group undertakings' directors, officers, employees, professional advisers (but, for the avoidance of doubt, excluding actual or prospective finance providers), agents and representatives (and any directors, officers, employees and partners of any such advisers, agents and representatives),

Data Protection Law means all applicable requirements of the Data Protection Act 2018, UK GDPR, EU GDPR and all similar legislation and regulations relating to data protection in any relevant jurisdiction;

EU GDPR means the General Data Protection Regulation (EU) (2016/679) (as amended from time to time) and any laws or regulations of the United Kingdom that implement or exercise derogations under it, or replace or supersede it;

group undertakings shall be construed in accordance with Section 1161 of the Companies Act 2006;

interest in shares or securities shall be construed in accordance with the Code;

Panel means the Panel on Takeovers and Mergers;

parties means Capco and Shaftesbury and **party** shall be construed as any one of these;

Personal Data has the meaning given to it in the GDPR; and

UK GDPR means EU GDPR as it forms part of English law pursuant to the European Union Withdrawal Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020).

Duty of Confidentiality

2. Unless expressly consented to in writing by the other, each of the parties will, and will procure that each of its Authorised Recipients will:
 - a. hold the Confidential Information in strict confidence;
 - b. ensure that the Confidential Information is protected with the same security measures and degree of care that would apply to that party's own confidential information and, in any case, no less than reasonable security measures given the nature of the information and a reasonable degree of care;
 - c. use the Confidential Information only for the purpose of evaluating, negotiating, advising upon or implementing the Transaction;
 - d. without limiting Clause c, not use nor allow its Connected Persons to use the Confidential Information directly or indirectly for the purpose of its own business in order to obtain a commercial advantage or otherwise to the other party's detriment; and
 - e. not disclose or distribute (or allow any other person to do the same) any of the Confidential Information, except as permitted by the terms of this letter.
3. The undertakings in Clause 2 above will not apply to information which:
 - a. at the time of supply is in the public domain;

- b. subsequently comes into the public domain otherwise than (i) as a direct or indirect result of a breach of this letter, or (ii) which the receiving party knows (or ought reasonably to have known) to have been disclosed in breach of any duty of confidentiality owed to the other party or any of its Connected Persons;
- c. the receiving party can demonstrate is already in its lawful possession or that of any of its Connected Persons prior to such information being disclosed in connection with the Transaction and free from any obligation of secrecy or confidence;
- d. the receiving party can demonstrate subsequently comes lawfully into the receiving party's possession or that of any of its Connected Persons from a source other than the other party or any of its Connected Persons and which source does not owe the other party or any of its Connected Persons any obligation of confidentiality in relation to it; or
- e. which is independently developed for or by either party by persons who have not had access to the Confidential Information disclosed by either party to the other or information derived from it.

Permitted disclosure

- 4. Each party may disclose Confidential Information to any of its Connected Persons to the extent that such Connected Person needs access to that Confidential Information for the purpose of evaluating, negotiating, advising upon or implementing the Transaction, provided that:
 - a. that party making the disclosure informs the Connected Person concerned that the Confidential Information is confidential and of the existence and terms of this letter;
 - b. that party uses all reasonable endeavours to cause any such Connected Person to comply with the terms of this letter as if it were a party to it; and
 - c. that party will be responsible for any breach of the terms of this letter by any such Connected Person to whom it discloses Confidential Information under this Clause 4.
- 5. Each of the parties, or any of its Authorised Recipients, may further disclose Confidential Information to the extent such person is required to do so by applicable law or regulation, any order of a court of competent jurisdiction or any competent governmental, judicial or regulatory authority or body (including the Panel and any relevant stock exchange on which such person's securities are admitted to trading), provided that before disclosing any such information the relevant party or the relevant Authorised Recipient will, to the extent permitted by law or applicable regulation and so far as it is practicable to do so:
 - a. inform the other party of the basis on which disclosure is required;
 - b. take such steps as the other party may reasonably require to minimise such disclosure (except where such steps would result in adverse consequences for the party or the Authorised Recipient concerned); and
 - c. consult in good faith with the other party with a view to agreeing with the other party the form, content and timing of the disclosure.

6. If a party or any of its Authorised Recipients is not able to inform the other party before any Confidential Information is disclosed under Clause 5, that party will (to the extent permitted by law or applicable regulation) inform the other party as soon as reasonably practicable after the disclosure is made of the circumstances of the disclosure and the information that has been disclosed provided that this obligation shall not apply to any disclosure made in the ordinary course of the party's regulatory or supervisory function.
7. Nothing in this letter shall:
 - a. prevent either party, if in the context of the Transaction they are an offeree under the Code, from making a public announcement as referred to in Rule 2.3(d) of the Code in relation to any of the matters referred to in Paragraph (b) of the definition of Confidential Information; or
 - b. prevent either party from complying with the Code or any Panel determination.
8. Each of the parties, or any of its Authorised Recipients, may disclose Confidential Information falling within Paragraph (b) of the definition of Confidential Information to Norges Bank, provided that party uses reasonable endeavours to cause Norges Bank to comply with the terms of this letter as if it were a party to it.

Return or destruction of Confidential Information

9. If either party so requests in writing at any time before completion of the Transaction, the other party and its Authorised Recipients will immediately return to that party or (at the relevant party's election) destroy all Confidential Information (including any analyses, reports or documents which contain or reflect, or are derived or generated from, any such information), provided that:
 - a. the other party may retain any Confidential Information contained in any board papers or minutes;
 - b. the other party and its Authorised Recipients shall only be required to take all reasonable steps to expunge or erase Confidential Information from any computer or other electronic device;
 - c. the other party and/or its Authorised Recipients shall not be required to expunge or erase Confidential Information contained in any electronic file held in archive or back-up systems of that party or its Authorised Recipients which cannot be destroyed without incurring unreasonable effort so long as such file is not generally accessible beyond the need for disaster recovery or similar operations; and
 - d. the other party and its Authorised Recipients will each be permitted to retain any Confidential Information which is required to be retained by law or to satisfy the rules or regulations of any regulatory body or stock exchange or which it is customary or required to retain in accordance with the rules or recommendations of any relevant professional body,

provided, in each case, that the provisions of this letter shall continue to apply to any Confidential Information retained in accordance with this Clause 9.

10. Each party will, if the other party so requests in writing, confirm in writing to the other party that Clause 9 has been and will be complied with.

No representation or warranty

11. Each party will be responsible for making its own decision on the Confidential Information. Each party understands that the Confidential Information does not purport to be all inclusive and that no representation or warranty is made by or on behalf of the other party or any of its Connected Persons (or shall be implied) as to:
 - a. the accuracy, reliability, completeness or reasonableness of the Confidential Information;
 - b. whether or not the exploitation of its Confidential Information will infringe any patent or other rights of any other person; or
 - c. that its Confidential Information will remain unchanged after its supply to the other party.
12. Accordingly, each party agrees with the other party on its own behalf and on behalf of each of its Connected Persons that neither party nor any of its Connected Persons will:
 - a. have any liability to the other party or any other person resulting from the use or evaluation of Confidential Information by the other party or any of its Connected Persons or any other person; or
 - b. be under any obligation to provide further information, to update the Confidential Information or to correct any inaccuracies, or to enter into or continue discussions or negotiations in respect of the Transaction.

The terms of this Clause 12 may not be varied or terminated without the prior written consent of each party's Connected Persons. This Clause 12 does not exclude or limit any liability for, or remedy in respect of, fraud or fraudulent misrepresentation.

13. Each party acknowledges and agrees that neither party nor any of its Connected Persons owes any duty of care to the other party, the other party's Connected Persons or any other person, and that no person other than Shaftesbury or Capco has any authority to make or give any statement, warranty, representation or undertaking on behalf of Shaftesbury or Capco or any of their respective Connected Persons (as the case may be) in connection with the Transaction.

Personal Data

14. The parties acknowledge that Confidential Information may include Personal Data, the handling or processing of which may be subject to the requirements of Data Protection Law. Without limitation to any other term of this letter, in relation to the Personal Data comprised within the Confidential Information provided to it by the other party, each party will:
 - a. comply with all relevant provisions of applicable Data Protection Law;
 - b. take appropriate technical and organisational measures to guard against any accidental, unlawful or unauthorised destruction, loss, alternation, disclosure of, or access or

damage to such Personal Data or any other unauthorised or unlawful processing of such Personal Data (each, a **Data Breach**);

- c. upon becoming aware of any Data Breach in respect of such Personal Data, notify the other party of such Data Breach;
- d. promptly notify the other party if it receives any communication (including without limitation from the Information Commissioner) which relates to such Personal Data or either party's compliance with Data Protection Law;
- e. promptly provide the other party with such reasonable cooperation, information and assistance as may from time to time reasonably be requested to enable such party to comply with its obligations under Data Protection Law; and
- f. if required, enter into with the other party the standard contractual clauses required for the transfer and processing of such Personal Data outside the European Economic Area, as approved by the Commission of the European Union in accordance with Data Protection Law.

Non-solicitation of employees

- 15. Each of the parties will not, and will procure that none of its directors, officers, employees or group undertakings (or their directors, officers, employees) will, directly or indirectly, for a period of 12 months from the date of this letter, without the prior written consent of the other party, employ or offer to employ, or solicit for employment or endeavour to entice away, any individual who is at any time during that 12 month period an officer of, or an employee holding an executive or management position with, the other party or any of its group undertakings, provided that the placing of an advertisement of a post available to members of the public generally and the employment of any persons pursuant to any such advertisement shall not amount to a breach of this Clause 15 provided such announcement is made in good faith without the intention of targeting any person who you would otherwise be restricted from employing pursuant to this Clause 15.
- 16. Each party undertakes to the other party that it will not, and it will procure that its directors, officers, employees or group undertakings (or their directors, officers, employees) will not, directly or indirectly, from the date of this letter until the date 12 months after the date on which the discussions between the parties regarding the Transaction are terminated, solicit, entice away, canvass or approach any person:
 - a. who is or was during such period a customer or supplier of the other party or any of its group undertakings; and
 - b. about whom the other party or any of its Connected Persons has made Confidential Information available to that party or any of its Connected Persons,

for the purpose of, in the case of a customer, offering to that person, goods or services of the same type as, or similar to, any goods or services supplied by the other party or any of its group undertakings and, in the case of a supplier, obtaining the supply from that person of goods or services of the same type as, or similar to, any goods or services supplied to the other party or any of its group undertakings where it is reasonably likely that such soliciting, canvassing or

approaching would, if successful, materially prejudice the ability of the other party or any of its group undertakings to procure, or the terms on which it is able to procure, the supply of such goods or services. This Clause 16 will not prohibit solicitation of customers or suppliers in the normal and proper course of the ordinary trading activities of that party provided such solicitation is unrelated to the Transaction.

Authorised contact

17. Subject to Clause 18, for the purposes of discussions in relation to the Transaction, Capco and its advisers shall only have contact with those directors and employees of Shaftesbury and/or its Connected Persons as nominated in writing by Shaftesbury, and Shaftesbury and its advisers shall only have contact with those directors and employees of Capco and/or its connected persons as nominated in writing by Capco.
18. Save with the prior written consent of the other party or as permitted pursuant to Clause 17, and subject to Clause 19, neither party shall in connection with the Transaction, (or with a view to eliciting information in relation to it) contact any other person connected in any way with the other party or its group undertakings, including, without limitation, the customers, bankers or suppliers of the other party and the shareholders, officers, employees, agents or advisers of the other party or its group undertakings. It is agreed however that either party may have contact or deal with any person with whom they have an existing relationship and in the ordinary course of business unconnected with the Transaction and not involving the use of Confidential Information.
19. Each party's advisers may communicate with the other party's advisers in connection with the Transaction.

Restrictions on share dealings

20. Each of the parties recognises and accepts, and will advise its Authorised Recipients, that the Confidential Information is given and any negotiations are taking place in confidence, and that the proposed Transaction and some or all of the Confidential Information is or may constitute inside information for the purposes of the Criminal Justice Act 1993 (the "**CJA**") and/or the UK Market Abuse Regulation, which is the UK version of the EU Market Abuse Regulation (596/2014) that is part of UK law by virtue of the European Union (Withdrawal) Act 2018 ("**MAR**") and neither party nor any of its Authorised Recipients should:
 - a. engage or attempt to engage in insider dealing (as defined in MAR and/or the CJA), recommend that another person engage in insider dealing or induce another person to engage in insider dealing on the basis of any inside information;
 - b. unlawfully disclose any inside information (as defined in MAR); or
 - c. engage or attempt to engage in behaviour based on any inside information which would amount to market manipulation (as defined in MAR).

Except with the express consent of the receiving party, each party undertakes not to disclose information that the disclosing party considers to be inside information as defined under the UK Market Abuse Regulation to the other party or its Connected Persons (other than the existence of the Transaction itself). In the event that information disclosed by a party pursuant to the diligence

process or otherwise becomes inside information after disclosure, the disclosing party shall promptly notify the receiving party of such fact.

General

21. The parties agree that, if the Panel determines that any provision of this letter that requires Shaftesbury to take or not to take any action, whether as a direct obligation or as a condition to any other person's obligation (however expressed), is not permitted by Rule 21.2 of the Code, that provision shall have no effect and shall be disregarded.
22. Without affecting any other rights or remedies that each of the parties may have, each of the parties acknowledges that a person with rights under this letter may be irreparably harmed by any breach of its terms and that damages alone may not necessarily be an adequate remedy. Accordingly, a person bringing a claim under this letter may be entitled to the remedies of injunction, specific performance and other equitable relief, or any combination of these remedies, for any threatened or actual breach of its terms.
23. Except where expressly provided otherwise in this letter, the obligations under this letter will expire at 11.59 p.m. (London time) on the date falling 24 months from the date of this letter.
24. Subject to Clause 23, each of the parties acknowledges and agrees that the undertakings set out in this letter will survive completion of the parties' negotiations, whether or not the Transaction is implemented.
25. No failure or delay by either party in exercising any right or remedy under this letter shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time. No single or partial exercise of any such right or remedy shall prevent any further exercise of it or the exercise of any other remedy. The rights and remedies of each party under this letter are cumulative and not exclusive of any rights or remedies provided by law.
26. No amendment to this letter will be valid unless it is in writing and signed by or on behalf of both of the parties, and no waiver granted by a party in respect of any of its rights under this letter will be effective unless it is in writing and signed by or on behalf of the relevant party.
27. If any provision of this letter is held to be invalid or unenforceable, that provision shall (so far as it is invalid or unenforceable) be given no effect and shall be deemed not to be included in this letter, but without invalidating any of the remaining provisions.
28. Each of the parties' respective Connected Persons shall have the right under the Contracts (Rights of Third Parties) Act 1999 to enforce the terms of this letter (as amended from time to time), subject to and in accordance with:
 - a. the terms of Clause 30; and
 - b. save as provided in Clause 12, the term that the parties to this letter may by agreement terminate or rescind or vary it in any way without the consent of any Connected Persons.
29. Save as provided in Clause 28, a person who is not a party to this letter shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

30. Each party represents and agrees that to the extent any Confidential Information attracts any form of privilege or refers to other documents which attract any form of privilege, then such privilege shall not be waived, prejudiced or otherwise affected in any way (directly or indirectly) by being made available to the other party. Each party acknowledges that the other party expressly relies on such representation and agreement in permitting the other party to have access to such Confidential Information.
31. This letter sets out the entire agreement between the parties, and replaces all previous agreements and understandings between them, relating to its subject matter.
32. This letter and any non-contractual obligations arising out of or in connection with this letter, the relationship between the parties and the conduct of any negotiations for the acquisition of Shaftesbury shall be governed by, and construed in accordance with, English law, and each party irrevocably submits to the exclusive jurisdiction of the English courts.
33. This letter may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of an executed counterpart signature page of this letter by e-mail attachment (PDF) or telecopy shall be as effective as delivery of a manually executed counterpart of this letter.

Please confirm your agreement by signing and returning to us a copy of this letter.

Yours faithfully,



for and on behalf of
Shaftesbury PLC

AGREED AND ACCEPTED

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for and on behalf of
Capital & Counties Properties PLC

Dated..... 2021

AGREED AND ACCEPTED



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for and on behalf of
Capital & Counties Properties PLC

Dated 7 December 2021