



HERBERT
SMITH
FREEHILLS

_____ 2024

WITAN INVESTMENT TRUST PLC (IN MEMBERS' VOLUNTARY LIQUIDATION)

and

DEREK NEIL HYSLOP and RICHARD PETER BARKER AS JOINT LIQUIDATORS

and

ALLIANCE TRUST PLC

TRANSFER DEED

Herbert Smith Freehills LLP

THIS DEED is made on the _____ day of _____ 2024

BETWEEN:

1. **WITAN INVESTMENT TRUST PLC (IN MEMBERS' VOLUNTARY LIQUIDATION)**, a public limited company, with company number 00101625, incorporated under the laws of England and Wales and whose registered office is at 14 Queen Anne's Gate, London, SW1H 9AA (the "**Company**"), acting by its liquidators, DEREK NEIL HYSLOP and RICHARD PETER BARKER of Ernst & Young LLP, 1 More London Place, London, SE1 2AF;
2. **DEREK NEIL HYSLOP** and **RICHARD PETER BARKER** of Ernst & Young, 1 More London Place, London, SE1 2AF in their capacities as the joint liquidators of the Company (jointly and severally the "**Liquidators**"); and
3. **ALLIANCE TRUST PLC**, a public limited company, with company number SC001731, incorporated under the laws of Scotland and whose registered office is at River Court, 5 West Victoria Dock Road, Dundee, Scotland, DD1 3JT ("**ATST**").

RECITALS

- (A) The Company was placed into members' voluntary liquidation on the passing, at the Second General Meeting, of a special resolution of the Company under the terms of which the Liquidators were appointed as the joint liquidators of the Company (with the power to act jointly or alone in relation to such liquidation).
- (B) By special resolution of the Company passed at the First General Meeting, the Liquidators were (subject to their appointment becoming effective) authorised and directed to enter into and give effect to this Agreement.
- (C) This Agreement is entered into pursuant to and to give effect to the Scheme (to the extent relating to the transfer of the Rollover Pool) which has been made pursuant to section 110 of the Insolvency Act 1986 and also provides for the transfer of certain assets of the Company, also included in the Rollover Pool, to ATST in consideration for the Novation of the WTAN Secured Notes from the Company to ATST.
- (D) Pursuant to the Scheme, the cash, undertaking and other assets of the Company comprised in the Rollover Pool are to be transferred to ATST on the terms and subject to the conditions of this Agreement in consideration for the issue by ATST of New ATST Shares to those Shareholders who elect (or are deemed to have elected) for the Rollover Option under the Transaction and in consideration for the Novation of the WTAN Secured Notes from the Company to ATST.
- (E) Each of the parties to this Agreement have previously entered into a binding undertaking to enter into this Agreement, subject in each case to the Scheme becoming unconditional. By the passing of the First Resolution of the Company at the Second General Meeting and the satisfaction of the Scheme Conditions, the Scheme has become unconditional. The Company is accordingly bound to enter into this Agreement.

- (F) ATST is willing to receive the cash, undertaking and other assets of the Company comprised in the Rollover Pool on the terms and subject to the conditions of this Agreement.

OPERATIVE PROVISIONS

1. Definitions and interpretation

- 1.1. In this Agreement, the following terms and expressions shall have the following meanings:

"Circular" means the circular issued by the Company to its Shareholders on 12 September 2024, a copy of which can be found in Appendix 2 to this Agreement;

"Employees" means the Company's employees excluding Andrew Bell, namely: Alisha Desai, James Hart, Graham Hunnisett, Isabella Seekings and Holly Wilson-Smith;

"Receiving Agent" means Computershare Investor Services PLC;

"Scheme" means the scheme for the reconstruction and winding up of the Company described in Part 4 of the Circular;

"Scheme Conditions" means the conditions to implementation of the Scheme as set out in paragraph 14 of Part 4 of the Circular;

"Scheme Value" means, in respect of any asset, the net value of such asset calculated as at the Calculation Date in accordance with the valuation provisions of the Scheme; and

"Secured Note Value" means assets equal to the fair value (as determined by the Directors for the purposes of the Transaction) of the WTAN Secured Notes, together with interest accrued up to and including the Calculation Date on the WTAN Secured Notes and a further amount in respect of the period to the Effective Date.

- 1.2. Unless the context requires otherwise, terms defined in the Circular shall have the same meaning in this Agreement (including the recitals).

- 1.3. A reference to a statute or statutory provision includes a reference:

1.3.1. to that statute or statutory provision as from time to time consolidated, modified, re-enacted or replaced by any statute or statutory provision;

1.3.2. to any repealed statute or statutory provision which it re-enacts (with or without modification); and

1.3.3. to any subordinate legislation made under it.

- 1.4. References to the singular shall include the plural, and vice versa.

- 1.5. References to any gender shall include all genders.

- 1.6. Words denoting persons shall include undertakings (as defined in section 1161 of the Companies Act 2006) and vice versa.

- 1.7. References to Clauses are to clauses of this Agreement.
- 1.8. The headings to Clauses are for convenience only and shall not affect the construction or interpretation of this Agreement.

2. Scheme Conditions

- 2.1. The transfer of the cash, undertaking and other assets of the Company comprised in the Rollover Pool to ATST as contemplated under this Agreement for the consideration provided under Clause 4 is subject to the satisfaction of the Scheme Conditions on or by 31 December 2024 (save to the extent waived by both the Company and ATST).
- 2.2. Each of the Company and ATST undertakes to use all reasonable endeavours (to the extent within their respective powers) to procure that the Scheme Conditions are satisfied by the first Business Day immediately following the Effective Date or as soon as reasonably practicable thereafter.
- 2.3. In the event that all or any of the Scheme Conditions have not been satisfied on or by close of business on 31 December 2024 then, save in respect of any accrued rights and obligations of the parties for any breach of Clause 2.2, and the provisions of Clauses 7, 10 and 11, this Agreement shall cease to be of any effect and the parties shall cease to have any rights and obligations hereunder.
- 2.4. Completion of the Transaction is dependent on Admission becoming effective by close of business on 31 December 2024 (or such later date as may be agreed between the parties). In the event Admission does not occur after the Scheme has become unconditional, the Scheme would not be implemented and any assets transferred to ATST pursuant to Clause 3.2 below shall be returned to the Company by ATST and subsequently realised and the proceeds distributed to Shareholders in accordance with the provisions of the Scheme Resolutions.

3. Implementation of the Scheme

- 3.1. Each of the parties to this Agreement agrees with and undertakes to each other party that (insofar as may be within its respective powers) it shall implement the Scheme in accordance with its terms.
- 3.2. Subject always to Clause 5.1, the Company (acting by the Liquidators) shall transfer or procure the transfer to ATST (or its nominee) of the cash, undertaking and other assets of the Company comprising the Rollover Pool (including, in relation to the Novation of the liabilities under the WTAN Secured Notes to ATST, assets equal to the Secured Note Value) (as detailed in Appendix 1 to this Agreement), in accordance with and for the consideration provided under Clause 4 and the Scheme.
- 3.3. ATST shall use all reasonable endeavours to procure that WTW or, if more appropriate, Juniper Partners Limited ("**Juniper**") honours the employment of and employs the Employees, such employment currently being based in London, on terms generally no less favourable than the Employees' current employment at WTAN including with employment to

be based in the London area or working from home, to honour continuity of service and to commence at the time the Liquidators are appointed, as required by and pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”). The parties agree that the employment of the Employees referred to in this sub-clause 3.3 shall transfer either to WTW or Juniper (as appropriate) pursuant to TUPE.

- 3.4. The parties shall (or shall procure) that the relevant transferor and transferee comply with their respective applicable obligations to inform and consult as set out in TUPE.

4. Transfer of the Rollover Pool

- 4.1. On the Calculation Date, or as soon as practicable thereafter, the Company shall procure that there shall be delivered to ATST (or its nominee) particulars of the cash, undertaking and other assets comprising the Rollover Pool.

- 4.2. On the Effective Date, or as soon as practicable thereafter, the Company (acting by the Liquidators) shall procure that there shall be delivered to ATST (or its nominee):

4.2.1. particulars of the cash, undertaking and other assets comprising the Rollover Pool; and

4.2.2. a list certified by the Registrar of the name and address of each holder of Reclassified Shares with "A" rights and the number of Reclassified Shares with "A" rights held by each of them, indicating which such shareholders are Excluded Shareholders under the terms of the Scheme.

- 4.3. The consideration for the transfer of the Rollover Pool (which, for the purposes of this Clause 4.3, excludes assets included in the Rollover Pool attributable to the Novation of the obligations under the WTAN Secured Notes to ATST, equal to the Secured Note Value) by the Company to ATST shall be an amount equal to the Scheme Value of the Rollover Pool, which consideration shall be satisfied in full by the allotment by ATST on the Effective Date of the New ATST Shares to be issued pursuant to the Scheme and credited as fully paid, to the Liquidators (as nominees for the Shareholders entitled to them in accordance with the Scheme) upon delivery to ATST of the particulars referred to in Clause 4.2, whereupon:

4.3.1. the Liquidators shall immediately renounce the New ATST Shares to such Shareholders; and

4.3.2. ATST shall issue the New ATST Shares to such Shareholders (save for those New ATST Shares due to be issued to Excluded Shareholders which will be held by the Liquidators as nominee on behalf of such Excluded Shareholders in accordance with the Scheme and as further detailed in Clause 4.6 below),

in each case in accordance with the respective entitlements of the relevant Shareholders entitled to New ATST Shares as determined by paragraph 8.1 of Part 4 of the Circular and as reflected in the list provided under Clause 4.2.

- 4.4. ATST shall:

- 4.4.1. in the case of the New ATST Shares issued in certificated form, arrange for the despatch of certificates for such shares issued under the Scheme to the Shareholders entitled thereto (or in the case of the Excluded Shareholders, to the Liquidators) at their respective addresses in the Register (and, in the case of joint holders, to the address of the first-named) or to such other person and address as may have been specified by such persons in writing; and
- 4.4.2. in the case of the New ATST Shares issued in uncertificated form, procure that Euroclear is instructed on the Business Day following the Effective Date (or as soon as practicable thereafter) to credit the appropriate stock accounts in CREST of the Shareholders entitled thereto (or in the case of the Excluded Shareholders, to the Liquidators) with their respective entitlements to New ATST Shares issued under the Scheme,

and ATST shall be entitled to assume that all information delivered to it in accordance with Clause 4.4.1 and Clause 4.4.2 above is correct and shall utilise the same in procuring that such persons are entered in the register of members of ATST as the holders of the relevant numbers of New ATST Shares.

- 4.5. ATST will be obliged to accept all securities or other assets that are legally able to be transferred in accordance with their terms, whose values have been included in the WTAN FAV, and which fall within the investment objective and policy of ATST as set out in the ATST Prospectus.
- 4.6. For the avoidance of doubt:
 - 4.6.1. each Excluded Shareholder will be deemed to have elected for the Cash Option in respect of 100 per cent. of their holding of Ordinary Shares. Such deemed elections will be subject to scaling back in accordance with the Scheme; and
 - 4.6.2. Excluded Shareholders will not receive New ATST Shares pursuant to the Scheme. To the extent that an Excluded Shareholder is due to receive New ATST Shares under the Scheme (i.e. to the extent that the Excluded Shareholder's deemed election for the Cash Option is scaled back), then such New ATST Shares will instead be issued to the Liquidators (as nominee on behalf of such Excluded Shareholder) and then sold in the market (which will be done by the Liquidators without regard to the personal circumstances of the relevant Excluded Shareholder or the value of the Ordinary Shares held by the relevant Excluded Shareholder). The net proceeds of such sale (after deduction of any costs incurred in effecting such sale) will be paid:
 - (a) in respect of each Overseas Excluded Shareholder (who is not also a Sanctions Restriction Shareholder), to the relevant Overseas Excluded Shareholder as soon as practicable (with payment expected to be made within 10 Business Days of the date of sale), save that entitlements of less than £5.00 per Overseas Excluded Shareholder will be retained in the Liquidation Pool; or

- (b) in respect of each Sanctions Restriction Shareholder, at the sole and absolute discretion of the Liquidators and will be subject to applicable laws and regulations.

4.7. The consideration for the transfer by the Company to ATST of such assets in the Rollover Pool as are equal to the Secured Note Value, shall be the assumption by ATST of the obligations under the WTAN Secured Notes pursuant to the Novation.

5. Title

5.1. The cash, undertaking and other assets of the Company comprised in the Rollover Pool shall be transferred to ATST (or its nominee) with such rights and title as the Company may have in respect of the same or any part thereof, subject to and with the benefit of all and any rights, restrictions, obligations, conditions and agreements affecting the same or any part thereof, including the right to all income, dividends, distributions, interest and other rights and benefits attaching thereto or accruing therefrom.

5.2. The Company, acting by the Liquidators, shall comply with all reasonable requests made by ATST (or its nominee) in respect of the cash, undertaking and other assets of the Company comprised in the Rollover Pool and shall account to ATST for all income, dividends, distributions, interest and other rights and benefits in respect of the cash, undertaking and other assets comprised in the Rollover Pool received after the Effective Date.

5.3. ATST shall accept without investigation such title as the Company may have to the cash, undertaking and other assets comprised in the Rollover Pool and the Company, acting by the Liquidators, hereby agrees to enter into such undertakings, agreements, covenants, deeds or other arrangements as ATST shall reasonably require to enable it (or its nominee) to become the legal owner of the Rollover Pool and the undertaking and other assets of the Company comprised therein.

5.4. So far as the Liquidators and the Company are aware, the assets comprised in the Rollover Pool are, and shall be transferred, free from all mortgages, charges, liens, encumbrances and other adverse interests; provided that no representation, warranty, undertaking, assurance, promise or condition is given, nor is any to be implied, on the part of the Liquidators in their personal capacity as liquidators, as to the title or rights of the Company to any of the assets comprised in the Rollover Pool.

6. Completion of transfers

6.1. Completion of the transfer of the cash, undertaking and other assets of the Company comprised in the Rollover Pool shall take place on the Effective Date subject to the Scheme becoming unconditional or as soon as practicable thereafter and shall be irrevocable.

6.2. Upon or as soon as practicable following completion of the transfer of any of the cash, undertaking and other assets comprised in the Rollover Pool pursuant to this Agreement, the Company acting by the Liquidators:

- 6.2.1. shall deliver to ATST, or as it may direct, duly executed transfers in favour of ATST (or its nominee) in respect of all assets comprised in the Rollover Pool which pass by transfer, together with the relevant certificates or other documents of title relating thereto (to the extent these are in the Company's possession or control), shall procure and deliver to ATST, or as it may direct, copies of any consents, licences and approvals necessary to transfer the assets comprised in the Rollover Pool (to the extent these are in the Company's possession or control) and shall deliver to ATST, or as it may direct, all bearer instruments and other assets comprised in the Rollover Pool which pass by delivery. Property held subject to Clause 6.2.2 shall be deemed to have transferred for the purposes of this Clause 6.2.1; and
- 6.2.2. shall promptly give instructions to any person, company or other undertaking holding any part of the undertaking or assets comprised in the Rollover Pool as nominee or on trust for the Company or its nominee requiring such person, company or other undertaking to transfer such undertaking and/or assets to, or to execute a declaration of nomineehip or trust in favour of, ATST and/or as ATST may direct.
- 6.3. In the event of any part of the Rollover Pool for whatever reason not being transferred to ATST (or its nominee) in accordance with this Agreement, the Company, acting by the Liquidators, shall:
- 6.3.1. hold such part(s) of the Rollover Pool not so transferred on trust for ATST and at the risk, and for the benefit, of ATST;
- 6.3.2. comply with all reasonable requests made by ATST (or its agents) in respect thereof and shall be required to comply, so far as it is able to do so by law or otherwise, with all requests made by ATST (or its agents) where the failure of the Company and/or the Liquidators to comply with such request would cause ATST to suffer any loss or incur any liability; and
- 6.3.3. promptly account to ATST for all proceeds of sale, income, dividends, distributions, interest and other rights and benefits attaching thereto or accruing therefrom.

7. Costs

Each party agrees to pay their respective costs in connection with the implementation of the Transaction for which that party is responsible as described in the Circular.

8. Dissenting Shareholders

For the avoidance of doubt, no assets comprised within the Rollover Pool shall be transferred to any party pursuant to this Agreement in respect of the Shares of any Shareholder who has validly dissented from the Scheme in writing pursuant to the provisions of section 111(2) of the Insolvency Act 1986.

9. Notices

- 9.1. Any notice, consent, agreement, request, demand, approval or other communication required or permitted to be given or served under this Agreement shall be in writing and may be delivered or sent by post or email to the party to receive it at its address appearing in this Agreement or at such other address or email address as such party may notify to the other parties hereto in accordance with this Clause 9. Any notice or other document sent by post shall be sent by prepaid first class recorded delivery post.
- 9.2. All such notices, consents, agreements, requests, demands, approvals and other communications shall be deemed to have been received:
- 9.2.1. if delivered, at the time of delivery; or
- 9.2.2. if posted, at 10.00 a.m. (London time) on the second Business Day after it was put into the post; or
- 9.2.3. if sent by email, at the expiration of 2 hours after the time of despatch, if despatched before 3.00 p.m. (London time) on any Business Day, and, in any other case, at 10.00 a.m. (London time) on the Business Day after the date of despatch.
- 9.3. In proving service of a notice or document, it shall be sufficient to prove that delivery was made or that the envelope containing the notice or document was properly addressed and posted (by prepaid first class recorded delivery post) or that the email was properly addressed and despatched, as the case may be.
- 9.4. The email addresses referred to in clause 9.1 above are as follows:
- 9.4.1. In respect of the Company (including the Joint Liquidators on behalf of the Company) – dhyslop1@parthenon.ey.com. rbarker@parthenon.ey.com, crobertson3@parthenon.ey.com, laura.morrow@parthenon.ey.com.
- 9.4.2. In respect of ATST– lbrown@junipartners.com.

10. Governing Law

- 10.1. This Agreement and the rights and obligations of the parties shall be governed by and construed in accordance with the laws of England and Wales.
- 10.2. The parties hereby submit to the non-exclusive jurisdiction of the English courts in respect of any claim, dispute or difference arising out of or in connection with this Agreement.

11. General

- 11.1. Nothing in this Agreement or in any document executed under or in connection with it or the Scheme shall impose any personal liability on the Liquidators or either of them, save for any liability arising out of negligence, fraud, bad faith, breach of duty or wilful default by the Liquidators (or either of them) in the performance of his or their duties, and this Clause 11.1

shall, for the avoidance of doubt, exclude any such liability for any action taken by the Liquidators in accordance with the express provisions of the Scheme or this Agreement.

- 11.2. The Liquidators in their personal capacity are party to this Agreement solely to take the benefit of Clauses 5.4, 11.1 and 11.3 and to enable the Company to enter into this Agreement.
- 11.3. Each of the Company, the Directors, the Liquidators, the ATST Directors and ATST shall be entitled to act and rely, without enquiry, on any information furnished or made available to them or any of them, as the case may be, in connection with the Scheme and this Agreement, including, for the avoidance of doubt, any certificate, opinion, advice, valuation, evidence or other information furnished or made available to them by the Company, the Directors (or any of them), the ATST Directors, ATST or the Receiving Agent or by their respective auditors, bankers or other professional advisers and shall not be liable or responsible for any loss suffered by the Company, any Shareholder, ATST or any ATST Shareholder as a result of so relying. This Clause 11.3 shall not be regarded as implying liability on the part of any provider of such certificate, opinion, advice, valuation, evidence or other information so furnished.
- 11.4. This Agreement shall, insofar as any part of it remains to be performed, continue in full force and effect notwithstanding completion in accordance with Clause 6.
- 11.5. This Agreement and its appendixes supersede any previous written or oral agreement between the parties in relation to the matters dealt with herein and this Agreement and its appendixes, constitute the entire understanding of the parties in relation thereto to the exclusion of any terms implied by law which may lawfully be excluded by contract. Each of the parties to this Agreement acknowledges that he or she or it is not relying on any other representations or statements (including any pre-contractual representations) made by any of the other parties to this Agreement, except to the extent incorporated in or expressly provided for by this Agreement.
- 11.6. In the event that any provision of this Agreement (or part thereof) shall be void or unenforceable by reason of any provision of applicable law, the relevant provision (or relevant part thereof) shall be deleted and the remaining provisions (and the remaining part of the relevant provision) of this Agreement shall continue in full force and effect and if necessary, be so amended as shall be necessary to give effect to the remainder of this Agreement as far as possible.
- 11.7. Each party shall promptly execute all documents and do all things that any other party from time to time reasonably requires of it to effect, perfect or complete the provisions of this Agreement and any transaction contemplated by it.
- 11.8. No variation to this Agreement shall be effective unless it is in writing and signed on behalf of all the parties.
- 11.9. This Agreement shall be binding on the parties and their successors and assignees (as the case may be).

- 11.10. No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from such Act. The parties to this Agreement may by agreement rescind or vary any term of this Agreement without the consent of any third party, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 11.11. This Agreement may be executed in any number of counterparts and by the parties to it in separate counterparts, each of which when so executed shall be an original, but all counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF this Agreement has been executed and delivered as a deed on the date first written above.

The Company

EXECUTED as a **DEED** by **WITAN INVESTMENT TRUST PLC** (in members' voluntary liquidation), acting by one of its joint liquidators in the presence of the following witness

Signature

Signature of witness

Full name of witness

Address of witness

The Liquidators

EXECUTED as a **DEED** by **DEREK NEIL HYSLOP**, joint liquidator on behalf of himself and Richard Peter Barker, as Joint Liquidators of Witan Investment Trust plc in the presence of the following witness

Signature

Signature of witness

Full name of witness

Address of witness

ATST

EXECUTED as a **DEED** by **ALLIANCE TRUST PLC**, acting by
....., Director

Signature

and by,
Director/ company secretary

Signature

Appendix 1

Rollover Pool

Appendix 2
The Circular