



HERBERT  
SMITH  
FREEHILLS

14 February 2022

**STRATACT CONSULTING LIMITED**



and

**WORKSPACE GROUP PLC**

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**CONFIDENTIALITY AGREEMENT**

in relation to the

**McKay Securities Plc Pension and Life  
Assurance Scheme**

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Herbert Smith Freehills LLP

**THIS AGREEMENT** (the "**Agreement**") is made on 14 February 2022

**BETWEEN:**

- (1) **STRATACT CONSULTING LIMITED**, registered number 05506751 whose registered office is C/O Needham Accountancy Limited Berkeley House, Barnet Road, London Colney, St. Albans, Hertfordshire, United Kingdom, AL2 1NG, and [REDACTED] of [REDACTED] in their capacities as trustees of the Scheme (as defined below) (the "**Trustees**"); and
- (2) **WORKSPACE GROUP PLC** registered number 02041612 whose registered office is at Canterbury Court Kennington Park, 1-3 Brixton Road, London, England, SW9 6DE ("**Workspace**", together with the Trustees, the "**Parties**").

**BACKGROUND**

- (A) The McKay Securities Plc Pension and Life Assurance Scheme (the "**Scheme**") is governed by (inter alia) a set of rules dated 29 March 2011 (the "**Trust Deed and Rules**").
- (B) McKay Securities Plc ("**McKay**") is the current principal employer, and the Trustees are the current trustees, of the Scheme.
- (C) In connection with the Proposed Transaction (as defined below), Workspace has agreed to provide the Trustees with certain Confidential Information from time to time to allow them to fulfil their role as trustees of the Scheme.
- (D) Workspace wishes to ensure that the Trustees keep any such Confidential Information confidential and use it only for the purposes for which it is disclosed.
- (E) This Agreement sets out the terms on which the Confidential Information will be made available.

**NOW THEREFORE** the parties agree as follows:

**1. DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement, unless the context otherwise requires or permits:

1.2 "**Affiliate**" means, in relation to any person or entity, any person or entity who or which, directly or indirectly, controls, is controlled by, or is under common control with, such person or entity, including (without limitation) any of that person's group undertakings ("**group undertakings**" having the meaning ascribed to it in section 1161 of the Companies Act 2006);

"**Agent**" means directors, officers, employees, agents, partners and professional advisers;

"**Confidential Information**" means:

- (A) (i) all information relating directly or indirectly to the Discussions or to the Proposed Transaction (including the existence and contents of the Discussions, the Proposed Transaction (including its terms and conditions) and this Agreement, and, if the Proposed Transaction does not result in any transaction, the fact of the relevant Parties ceasing to participate in Discussions with each other in relation to the Proposed Transaction and any reasons related thereto); and (ii) if the Proposed Transaction does not proceed, the fact of the relevant parties ceasing to participate in Discussions with each other in relation to the Proposed Transaction and any reasons related thereto; (iii) the fact that

Workspace has made information of the type described in sub-paragraph (B) below available to the Trustees or others.

(B) all information in whatever form (including verbal, written and electronic forms) relating to the business, affairs, developments or trade secrets of Workspace which is disclosed to the Trustees by or on behalf of Workspace in connection with the Proposed Transaction, but excluding information which:

1.2.2 is, or subsequently becomes, within the public domain, other than as a result of it being disclosed in breach of this Agreement;

1.2.3 was lawfully within the possession of the Trustees prior to it being disclosed to the Trustees by or on behalf of Workspace and in relation to which they were not under any obligation of confidence; or

1.2.4 is disclosed to the Trustees by a third party who was not, to their knowledge, under an obligation of confidence;

**"Discussions"** means the discussions between the Trustees, Workspace and/or McKay (or any of their respective Affiliates and/or Agents) regarding the Proposed Transaction and/or regarding the Scheme in connection with the Proposed Transaction; and

**"Proposed Transaction"** means the proposed acquisition by Workspace or any of its Affiliates of the entire issued and to be issued share capital of McKay, whether by way of a takeover offer or a scheme of arrangement (in each case, as defined in the Companies Act 2006), and all other matters connected thereto.

1.3 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision as amended or re-enacted.

## 2. CONFIDENTIALITY OBLIGATIONS

2.1 In consideration of Confidential Information being made available to the Trustees, each of the Trustees hereby undertakes that they will:

2.1.1 keep the Confidential Information confidential and shall not disclose it, or allow it to be disclosed, to any person (except as otherwise permitted by this Agreement);

2.1.2 use the Confidential Information solely in connection with the discharge of their duties in relation to the Scheme;

2.1.3 not copy, adapt or reproduce any Confidential Information (except as otherwise permitted by this Agreement);

2.1.4 treat and safeguard as private and confidential and ensure proper and secure storage of all Confidential Information;

2.1.5 not use the Confidential Information for the purposes of making any investment decisions in relation to Workspace and/or McKay;

2.1.6 inform Workspace as soon as practicable on becoming aware that an unauthorised person has become aware of the Confidential Information; and

2.1.7 in respect of each trustee which is a corporate entity, procure that its directors and employees from time to time comply with such obligations.

## 3. PERMITTED DISCLOSURE

3.1 The Trustees shall not disclose Confidential Information without the prior written consent of Workspace (such consent not to be unreasonably withheld or delayed), except that disclosure may be made by the Trustees to:

3.1.1 the other trustees of the Scheme at the date of this Agreement, being [REDACTED];

- 3.1.2 any person appointed as a trustee of the Scheme after the date of this Agreement but only after they have delivered to Workspace a copy of the signed undertaking regarding the Confidential Information in the form set out in the Schedule to this Agreement;
  - 3.1.3 the Trustees' professional advisors appointed under section 47 of the Pensions Act 1995 (including the Scheme's actuary, auditor, custodian, investment manager and legal adviser) who are bound by confidentiality obligations as a result of professional duties;
  - 3.1.4 any properly appointed professional advisors (other than those specified in Clause 3.1.3) in connection with the discharge of their duties in relation to the Scheme or the Proposed Transaction but only after they have delivered to Workspace a copy of the signed undertaking regarding the Confidential Information in the form set out in the Schedule to this Agreement;
  - 3.1.5 McKay and its properly appointed professional advisors; and
  - 3.1.6 the minimum extent required by law, including to, and in response to a request for information from, the Pensions Regulator. For the avoidance of doubt this Clause 3.1.6 does not permit disclosure to any beneficiaries under the Scheme under any general obligation of the Trustees to disclose information.
- 3.2 Before the Trustees disclose any information under Clause 3.1, they shall inform the party they are disclosing the information to ("**Authorised Recipient**") that the information is subject to a confidentiality agreement with Workspace.
- 3.3 The Trustees shall (to the extent permitted by law) use all reasonable endeavours to inform Workspace before any disclosure is made under Clause 3.1.6 of the information to be disclosed and the circumstances of the disclosure. If the Trustees cannot inform Workspace before the Confidential Information is disclosed, they shall (to the extent permitted by law) inform Workspace immediately after the disclosure.

#### 4. **INSIDE INFORMATION**

- 4.1 The Trustees recognise and accept, and will advise any Authorised Recipient of Confidential Information, that the Confidential Information is given and any Discussions regarding the Proposed Transaction are taking place in confidence, and that the Proposed Transaction and some or all of the Confidential Information may constitute "inside information" for the purposes of the Criminal Justice Act 1993 (the "**CJA**") and/or the Market Abuse Regulation (EU) 596/2014 (as it forms part of UK law by virtue of the European Union (Withdrawal) Act 2018) (as amended) ("**UK MAR**") and that, as such, none of the Trustees nor any Authorised Recipient of Confidential Information will:
- 4.1.1 deal in securities that are price-affected securities (as defined in the CJA) in relation to any inside information, encourage another person to deal in price-affected securities or disclose any inside information except as permitted by the CJA before the inside information is made public;
  - 4.1.2 engage or attempt to engage in insider dealing (as defined in UK MAR), recommend that another person engage in insider dealing or induce another person to engage in insider dealing on the basis of any inside information;
  - 4.1.3 unlawfully disclose any inside information (as defined in UK MAR); or
  - 4.1.4 engage or attempt to engage in behaviour based on any inside information which would amount to market manipulation (as defined in UK MAR).

#### 5. **COPIES**

- 5.1 The Trustees may only make copies of Confidential Information (including any document, electronic file, note or other method of representing or recording and recalling information which contains, reflects or is derived from Confidential Information) which are reasonably necessary to discharge their duties in relation to the Scheme.

5.2 The Trustees shall:

5.2.1 Clearly mark all copies as confidential; and

5.2.2 use all reasonable endeavours to ensure that copies within their control are protected against theft or unauthorised access and that no person discovers Confidential Information unless authorised.

## 6. **RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION**

6.1 On the written request of Workspace, the Trustees shall return, destroy or permanently erase all Confidential Information (together with any copies), unless they are otherwise required by law or regulation to keep the Confidential Information.

6.2 The Trustees shall as soon as possible confirm in writing to Workspace that they have complied with any request made under Clause 6.1.

## 7. **CONSEQUENCES OF BREACH**

7.1 The Trustees will notify Workspace immediately if they become aware of any breach by the Trustees or any of the Authorised Recipients of any of the terms of this Agreement.

7.2 Without prejudice to any other rights or remedies which Workspace may have, the Trustees acknowledge and agree that Confidential Information is important to Workspace and that an award in damages may be insufficient to protect Workspace in the event of any breach of the terms of this Agreement, and that Workspace shall be entitled to the remedy of injunction (or any equivalent remedy in any other jurisdiction or such other action as it deems appropriate) for any suspected, threatened or actual breach of the terms of this Agreement.

## 8. **NON-DISCLOSURE**

8.1 The parties to this Agreement shall not disclose the contents or existence of this Agreement to any third party (under exception of the Trustees' fellow trustees of the Scheme, Workspace, McKay, permitted advisers, agents, employees and representatives) without the consent of the other party.

## 9. **DURATION**

9.1 This Agreement shall terminate on the date five years after the date of this Agreement or when terminated by Workspace in writing (whichever is earlier). The obligations under this Agreement shall end on termination of the Agreement, but without affecting the liability of either party for a breach of the Agreement before then, or as the parties otherwise agree in writing.

## 10. **ENTIRE AGREEMENT**

10.1 This Agreement constitutes the whole agreement between the parties and supersedes any arrangements, understanding or previous agreement between them relating to the subject matter it covers.

10.2 Any variations of this Agreement shall be in writing and signed by, or on behalf of, Workspace and the Trustees (who are at the time of the variation current trustees of the Scheme). For the avoidance, this includes any future confidentiality agreement that may be agreed between the said parties relating to a specific corporate event.

10.3 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to a person to whom the waiver is addressed and the circumstances for which it is given.

10.4 This Agreement is not intended to provide any guarantee, assurance or warranty that the Confidential Information is true, accurate or complete. Neither party is liable to the other, or to anyone to whom the other discloses the information, if it is relied on.

11. **THIRD PARTY RIGHTS**

11.1 No one other than a party to this Agreement shall have a right under the Contracts (Rights of Third Parties) Act 1999 to enforce its terms.

12. **COUNTERPARTS**

12.1 This Agreement may be executed in any number of counterparts and by each of the parties on separate counterparts. Each counterpart is an original, but all counterparts will together constitute one and the same instrument.

13. **GOVERNING LAW**

13.1 This Agreement shall be governed and construed in accordance with the laws of England and Wales and both parties submit to the exclusive jurisdiction of the English courts regarding disputes arising in connection with this Agreement.

**IN WITNESS WHEREOF THIS AGREEMENT** has been executed by or on behalf of the parties on the date at the top of page 1.

**SIGNATURES**

**SIGNED** for and on behalf of  
**WORKSPACE GROUP PLC**

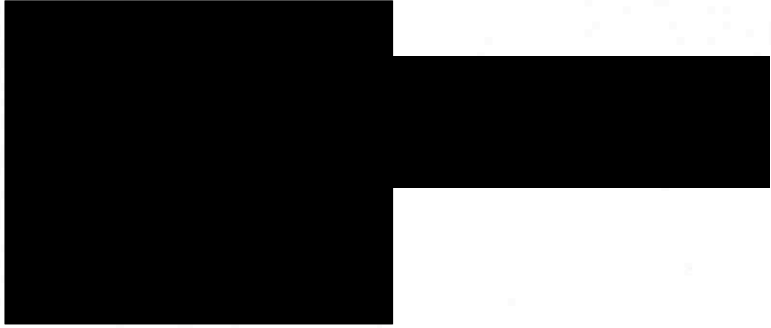
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**SIGNATURES**

**SIGNED for and on behalf of  
STRATACT CONSULTING  
LIMITED**

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**SIGNED by**



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**SIGNATURES**

**SIGNED for and on behalf of  
STRATACT CONSULTING  
LIMITED**

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**SCHEDULE**

**FORM OF UNDERTAKING TO BE ENTERED BY NEW TRUSTEES AND PROFESSIONAL ADVISORS**

To: **WORKSPACE GROUP PLC**, a company registered in England and Wales with company number 02041612 and having its registered office at Canterbury Court Kennington Park, 1-3 Brixton Road, London, England, SW9 6DE (the "**Workspace**")

[I]/[We] have received a copy of the agreement between you and certain trustees of the McKay Securities Plc Pension and Life Assurance Scheme (the "**Trustees**") dated [●] 2022 (the "**Agreement**") and, in consideration of your agreement to make available to the Trustees and its Authorised Recipients Confidential Information as referred to in the Agreement, [I]/[we] accept and undertake to be bound by the provisions of the Agreement and undertake that [I]/[we] will only use any Confidential Information, as defined in the Agreement, in accordance with the terms of that Agreement, as if reference to the "Trustee" referred to [me]/[us].

[I]/[We] confirm that the obligations in the Agreement remain binding on [me]/[us] even after [I]/[we] cease to be [a trustee of]/[advisors to] the McKay Securities Plc Pension and Life Assurance Scheme.

Signed: .....

[on behalf of [●]]

Date: .....