

Date: 15 July 2021

**SHAREHOLDERS' AGREEMENT**

**relating to**

**GEMINI JERSEY JV GP LIMITED**

**between**

**SCAPE HOLDCO 1 LTD**

**and**

**CAPELLA UK MIDCO 4 LIMITED**

**KIRKLAND & ELLIS INTERNATIONAL LLP**

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Date: 15 July 2021

## **PARTIES**

- (1) **SCAPE HOLDCO 1 LTD**, a private limited company incorporated in England and Wales with registered number 13490166 whose registered office is at 8 Sackville Street, London, United Kingdom, W1S 3DG (“Scape Living” and, together with iQ Midco, the “Shareholders”);
- (2) **CAPELLA UK MIDCO 4 LIMITED**, a private limited company incorporated in England and Wales with registered number 12591838 whose registered office is at 12 St. James’s Square, London, England, SW1Y 4LB (“iQ Midco”);
- (3) **GEMINI JERSEY JV GP LIMITED**, a private limited company incorporated in England and Wales with registered number 13461258 whose registered office is at 12 St. James’s Square, London, England, SW1Y 4LB (the “Company”);

## **INTRODUCTION**

- (A) The Shareholders have formed the Company to act as general partner of Gemini Jersey JV L.P. (“Bidco”) in connection with the potential acquisition by Bidco of GCP Student Housing plc.
- (B) The Shareholders are entering into a limited partnership agreement in respect of Bidco and this Agreement in respect of the Company such that Scape Living holds 74% and iQ Midco holds 26% in Bidco and Scape Living holds 60.05% and iQ Midco holds 39.95% in the Company.
- (C) The Shareholders wish to enter into this Agreement to set out the terms on which they shall invest in and be members of Company.

## **1 DEFINITIONS AND INTERPRETATION**

### Definitions

- 1.1 In this Agreement, unless expressly stated otherwise, the capitalised terms set out below have the following meanings:

“Act” means the Companies Act 2006;

“Affiliate” means in respect of any person:

- (a) any subsidiary undertaking or parent undertaking of such person from time to time;
- (b) any subsidiary undertaking of any parent undertaking of such person from time to time;
- (c) any person controlled by such person from time to time; and
- (d) any person which controls such person and any other person under the control of the same person from time to time;

this “Agreement” means this shareholders’ agreement, including the Introduction and the Schedules;

“Articles” means the articles of association of the Company;

“ <u>Board</u> ”	means the board of directors of the Company;
“ <u>Board Meeting</u> ”	means any duly constituted meeting of the Board;
“ <u>Business</u> ”	means the business carried on, or intended to be carried on, by the Group and / or any Group Company from time to time;
“ <u>Business Day</u> ”	means any day that is not a Saturday or Sunday or a public holiday in London, the United Kingdom;
“ <u>Completion</u> ”	means the subscription by Scape Living for Securities in the Company;
“ <u>Completion Date</u> ”	has the meaning given to it in Clause 2.1;
“ <u>Deed of Adherence</u> ”	means a deed of adherence to this Agreement in the form set out in Schedule 1 or such other form as the Board may require or approve from time to time;
“ <u>Directors</u> ”	means any member of the Board from time to time, each being a “ <u>Director</u> ”;
“ <u>GCP Liquidation</u> ”	has the meaning given to it in the Separation Agreement;
“ <u>GCP Winding-Down</u> ”	has the meaning given to it in the Separation Agreement;
“ <u>Group</u> ”	means the Group Companies, taken as a whole;
“ <u>Group Companies</u> ”	means the Company and each subsidiary undertaking of the Company from time to time (each being a “ <u>Group Company</u> ”);
“ <u>iQ Midco Assets</u> ”	has the meaning given to it in the Separation Agreement;
“ <u>iQ Midco Group</u> ”	has the meaning given to it in the Separation Agreement;
“ <u>iQ Midco Propco</u> ”	has the meaning given to it in the Separation Agreement;
“ <u>iQ Midco Security</u> ”	has the meaning given to it in Clause 5.3(e);
“ <u>Ordinary Shares</u> ”	means any ordinary shares issued by the Company;
“ <u>Original Holder</u> ”	has the meaning given to it in Clause 10.5(b);
“ <u>Permitted Transferee</u> ”	has the meaning given to it in Clause 10.3;
“ <u>Quorate Meeting</u> ”	has the meaning given to it in Clause 3.10;
“ <u>Residual Assets</u> ”	has the meaning given to it in the Separation Agreement;
“ <u>Residual Liabilities</u> ”	has the meaning given to it in the Separation Agreement;
“ <u>Residual Perimeter</u> ”	has the meaning given to it in the Separation Agreement;
“ <u>Securities</u> ”	means Ordinary Shares, and any other shares, convertible preferred equity certificates, preferred equity certificates, loan notes, equity, quasi equity or debt instruments (including any options, warrants or

other securities or instruments convertible or exchangeable into Ordinary Shares or any other shares, equity, quasi equity or debt instruments) issued by any Group Company from time to time, but excluding any shares, equity, quasi equity or debt instruments issued by a Group Company to, or held by, another Group Company;

“ <u>Separation Agreement</u> ”	means the separation agreement dated on or around the date hereof between (among others) Scape Living, iQ Midco and Bidco;
“ <u>Shareholders</u> ”	has the meaning given to it in the Introduction;
“ <u>Scape Asset</u> ”	has the meaning given to it in the Separation Agreement;
“ <u>Scape Group</u> ”	has the meaning given to it in the Separation Agreement;
“ <u>Scape Propco</u> ”	has the meaning given to it in the Separation Agreement;
“ <u>Scape Security</u> ”	has the meaning given to it in Clause 5.1(e);
“ <u>Super Voting Director</u> ”	has the meaning given to it in Clause 3.11; and
“ <u>Transaction Documents</u> ”	has the meaning given to it in the Separation Agreement.

- 1.2 References to a “Party” and the “Parties” are to a party and the parties to this Agreement, including any person:
- (a) who becomes a party to this Agreement pursuant to any Deed of Adherence;
  - (b) who for the time being is entitled (by assignment, novation or otherwise) to a Party’s rights under this agreement (or any interest in such rights);
  - (c) who as administrator, liquidator or otherwise, is entitled to exercise such rights; and
  - (d) to whom such rights (or any interest in those rights) are transferred or pass as a result of a merger, division, reconstruction or other reorganisation involving a Party.
- 1.3 References to the “Introduction” and the “Schedules” are to the introduction and the schedules to this Agreement, which form part of this Agreement and have the same force and effect as if set out in the body of this Agreement.
- 1.4 References to “Recitals” and “Clauses” are to the recitals of the Introduction and clauses of this Agreement, respectively.
- 1.5 In respect of any person, “control” and “controlled” means the power, directly or indirectly, to manage or govern such person, or to appoint the managing and governing bodies of such person or a majority of the members of such managing or governing bodies, whether through the ownership of voting securities, by contract or otherwise (for this purpose a limited partnership shall be deemed to be controlled by its general partner or any manager or investment adviser of such limited partnership).
- 1.6 In respect of any Securities, unless the context requires otherwise, a “transfer” means:
- (a) any sale or other disposition (including by way of mortgage, charge or other security interest of the whole or any part of the legal or beneficial interest in such Securities);

- (b) the grant of any option or other rights over the whole or any part of the legal or beneficial interest in such Securities;
- (c) any direction (by way of renunciation or otherwise) by a holder entitled to an allotment or transfer of shares that such Securities be allotted or transferred to some person other than himself; or
- (d) any sale or any other disposition of any legal or equitable interest in such Securities (including any voting right attached to it or issue of a derivative interest in a share or contract for differences) whether or not:
  - (i) by the relevant holder;
  - (ii) for consideration;
  - (iii) effected by an instrument in writing; or
  - (iv) made voluntarily or by operation of law.

1.7 Where any capitalised term is defined within any other Clause of this Agreement, that term shall bear the meaning ascribed to it in that Clause wherever it is used in this Agreement.

Interpretation

1.8 Headings to Clauses and Schedules and the table of contents are included for ease of reference only, and are not to affect the interpretation of this Agreement.

1.9 In this Agreement, unless expressly stated otherwise:

- (a) the words “include” or “including” (or any similar term) are not to be construed as implying any limitation;
- (b) general words shall not be given a restrictive meaning by reason of the fact that they are preceded or followed by words indicating a particular class of acts, matters or things;
- (c) words indicating gender shall be treated as referring to the masculine, feminine or neutral as appropriate;
- (d) a reference to a statute, statutory provision or subordinate legislation (“legislation”) refers to such legislation as amended and in force from time to time and to any legislation that (either with or without modification) re-enacts, consolidates or enacts in rewritten form any such legislation;
- (e) any reference to any document other than this Agreement is a reference to that other document as amended, varied, supplemented, or novated (in each case, other than in breach of the provisions of this Agreement) at any time;
- (f) references to the time of day are to London, England time;
- (g) a reference to something being “in writing” or “written” includes any mode of representing or reproducing words in visible form that is capable of reproduction in hard copy form, including words transmitted by email but excluding any other form of electronic or digital communication;

- (h) a reference to a document or communication being “signed” by or on behalf of any person means signature in manuscript by that person or such person’s duly authorised agent or attorney (which manuscript signature may be affixed or transmitted by email) and not any other method of signature;
- (i) any reference to a “person” includes any individual, body corporate, trust, partnership, joint venture, unincorporated association or governmental, quasi-governmental, judicial or regulatory entity (or any department, agency or political sub-division of any such entity), in each case whether or not having a separate legal personality, and any reference to a “company” includes any company, corporation or other body corporate, and any limited partnership or limited liability partnership wherever and however incorporated or established;
- (j) any reference to an “undertaking” shall be construed in accordance with section 1161 of the Act and any reference to a “parent undertaking” or a “subsidiary undertaking” means respectively a “parent undertaking” or “subsidiary undertaking” as defined in sections 1162 and 1173(1) of the Act, save that an undertaking shall be treated for the purposes of the membership requirement in sections 1162(2)(b) and (d) and section 1162(3)(a) as a member of another undertaking even if its shares in that other undertaking are registered in the name of (i) its nominee or (ii) another person (or its nominee) by way of security or in connection with the taking of security;
- (k) any reference to any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include what most nearly approximates in that jurisdiction to the English legal term; and
- (l) any reference to “£” or “GBP” is a reference to pounds sterling, being the lawful currency for the time being of the United Kingdom and “\$” or “USD” is a reference to US dollars, being the lawful currency for the time being of the United States of America.

## **2 COMPLETION AND SUBSCRIPTION**

2.1 Completion shall take place at the office of Kirkland & Ellis International LLP at 30 St. Mary Axe, London, EC3A 8AF (and/or at such other location(s) as may be reasonably required or as the Shareholders may determine in writing) as of the date hereof (the “Completion Date”).

2.2 At Completion:

- (a) Scape Living, or lenders acting at the direction of Scape Living, shall contribute £60.05 in consideration for 6,005 ordinary shares of the Company, which shall be issued by the Company; and
- (b) iQ Midco, or lenders acting at the direction of iQ Midco, shall contribute £38.95 in consideration for 3,895 ordinary shares of the Company, which shall be issued by the Company.

## **3 MANAGEMENT OF THE COMPANY AND THE GROUP**

### Board

3.1 The Board shall be the main governance forum and decision-making body for the strategic and supervisory control of the Group. It shall be responsible for key strategic decisions of the Group and its operations.

### Board Composition

- 3.2 The Parties agree that the Board shall initially comprise:
- (a) two Directors to be designated by Scape Living by notice in writing to the Company (which shall, at Completion, be Robert-Jan Foortse and Leo Hertog); and
  - (b) two Directors to be designated by iQ Midco by notice in writing to the Company (which shall, at Completion, be Michael Vrana and Rob Roger).
- 3.3 The composition of the Board may be changed upon written agreement of each Shareholder. At all times Scape Living and iQ Midco shall be entitled to appoint an equal number of Directors to the Board.
- 3.4 If at any time the number of Directors designated by a Shareholder is more than the number it is entitled to designate pursuant to clause 3.2 at such time, the last Director designated by such Shareholder shall automatically vacate office so that the number of Directors designated by such Shareholder equals the number it is entitled to designate pursuant to clause 3.2 at such time.
- 3.5 The right of designation conferred on a Shareholder by Clause 3.2 shall include the right of that Shareholder to request the removal from the Board at any time of any person designated by that Shareholder and nominate another person in replacement of that person.
- 3.6 Subject to Clause 3.4, the Parties agree that any person designated by a Shareholder to the Board in accordance with this Clause 3 may only be removed and/or replaced on the instructions of that Shareholder (which instructions shall include the identity of the person nominated by that Shareholder as his replacement).
- 3.7 Scape Living may from time to time designate by notice in writing to iQ Midco one or more of its Directors as a “Designated Scape Living Director”. iQ Midco may from time to time designate by notice in writing to Scape Living one or more of its Directors as a “Designated iQ Midco Director”.

### Board Meetings

- 3.8 The Board shall meet as often as deemed necessary by the Shareholders. Such meetings shall be held in the United Kingdom in accordance with the provisions of this Agreement and the Articles.
- 3.9 The quorum for transacting business at any Board Meeting or a committee meeting shall be at least one Director designated by each Shareholder when the relevant business is transacted (who shall be a Designated Scape Living Director and a Designated iQ Midco Director if any have been so designated) provided that, if such meeting is not quorate due to the absence of all Directors designated by a Shareholder, the meeting shall be adjourned until such time as a quorum can be formed. A Director shall be regarded as present for the purposes of a quorum if represented by a proxy.
- 3.10 Subject to Clauses 4.1 and 4.2, the Company shall be jointly controlled by Scape Living and iQ Midco, and all decisions of the Company and each Group Company, other than a Scape Propco or an iQ Midco Propco or as otherwise described below, to be passed or approved at a Board Meeting or committee meeting at which a quorum is established in accordance with Clause 3.9 (a “Quorate Meeting”) shall require approval by a majority of the votes available to be cast at such meeting, which majority must include at least one Director designated by each Shareholder



(who shall be a Designated Scape Living Director and a Designated iQ Midco Director if any have been so designated).

- 3.11 At each such Quorate Meeting, each Shareholder shall have the right to designate one of its Directors present at such Quorate Meeting as a “Super Voting Director” (each a “Super Voting Director”). The Super Voting Director shall be entitled to vote at such meeting a number of votes equal to the total number of Directors that such Shareholder is entitled to at the relevant time in accordance with Clause 3.2 and has appointed (whether or not all such Directors are present at such meeting). Except for the Super Voting Directors and any Director whose vote has been exercised or assumed by the Super Voting Director, each member of the Board will have one vote. The Board may also take action without a meeting by unanimous written consent.
- 3.12 For the avoidance of doubt, no Directors designated by a Shareholder shall be able to cast more votes (on an aggregated basis) at a Board Meeting or in providing written consent, than the number of Directors such Shareholder is entitled to designate (and has designated) pursuant to Clause 3.2 at the relevant time.

#### Appointment of directors of Group Companies

- 3.13 Scape Living shall at any time be entitled to appoint or remove (or request the appointment or removal of) any director of any Scape Propco. Such appointment and removal shall be made by notice in writing to the relevant Scape Propco.
- 3.14 iQ Midco shall at any time be entitled to appoint or remove (or request the appointment or removal of) any director of any iQ Midco Propco. Such appointment and removal shall be made by notice in writing to the relevant iQ Midco Propco.
- 3.15 The Parties agree to use their respective best endeavours to ensure that any person designated by (a) Scape Living to the board of the relevant Scape Propco in accordance with Clause 3.13 may only be removed or replaced on the instructions of Scape Living and (b) iQ Midco to the board of the relevant iQ Midco Propco in accordance with Clause 3.14 may only be removed or replaced on the instructions of iQ Midco.
- 3.16 The Board shall at any time be entitled to appoint or remove (or request the appointment or removal of) any director of any Group Company which is not an iQ Midco Propco or a Scape Propco. Such appointment and removal shall be made by notice in writing to the relevant Group Company.

## **4 RESERVED MATTERS**

- 4.1 Scape Living shall have sole control rights in relation to the Scape Propcos (and all decisions relating thereto), including with regard to dividends, distributions and other transfers and cash movements between the Scape Propcos, the Company and Scape Living (directly or indirectly) without the need for iQ Midco’s consent or approval unless the relevant decision is reasonably likely to be materially prejudicial to the interests of iQ Midco in relation to the Company or the iQ Midco Propcos.
- 4.2 iQ Midco shall have sole control rights in relation to the iQ Midco Propcos (and all decisions relating thereto), including with regard to dividends, distributions and other transfers and cash movements between the iQ Midco Propcos, the Company and iQ Midco (directly or indirectly) without the need for Scape Living’s consent or approval unless the relevant decision is reasonably likely to be materially prejudicial to the interests of Scape Living in relation to the Company or the Scape Propcos.

## 5 DEBT FINANCING

- 5.1 Scape Living shall be entitled, without the need for approval from iQ Midco, at any time to:
- (a) grant third party security over or pledge any Securities held by Scape Living or its Permitted Transferees in the Company in favour of any member of the Scape Group or any finance party in relation to the Scape Group;
  - (b) have or direct any Scape Propco to grant mortgages or other third party security over their respective Scape Assets in favour of Scape Living, any member of the Scape Group or any finance party in relation to the Scape Group;
  - (c) have or direct any Scape Propco to accede to the terms of any agreement between a member of the Scape Group and any finance party in relation to the Scape Group;
  - (d) have the immediate parent company of any Scape Propco grant third party security over or pledge their interests in such Scape Propco (but without any other guarantee or recourse to such immediate parent company) in favour of Scape Living, any member of the Scape Group or any finance party in relation to the Scape Group; and
  - (e) have any Scape Propco provide a guarantee or any other security over the Scape Assets, in favour of Scape Living, any member of the Scape Group or any finance party in relation to the Scape Group ((a), (b), (c), (d) and (e), each, a “**Scape Security**”).
- 5.2 iQ Midco and the Company shall, on written request of Scape Living, take all steps required to facilitate the grant (or procure (to the extent within its control) the granting) of any Scape Security.
- 5.3 iQ Midco shall be entitled, without the need for approval from Scape Living, at any time to:
- (a) grant third party security over or pledge any Securities held by iQ Midco or its Permitted Transferees in the Company in favour of any member of the iQ Midco Group or any finance party in relation to the iQ Midco Group;
  - (b) have or direct any iQ Midco Propco to grant mortgages or other third party security over their respective iQ Midco Assets in favour of iQ Midco, any member of the iQ Midco Group or any finance party in relation to the iQ Midco Group;
  - (c) have or direct any iQ Midco Propco to accede to the terms of any agreement between a member of the iQ Midco Group and any finance party in relation to the iQ Midco Group;
  - (d) have the immediate parent company of any iQ Midco Propco grant third party security over or pledge their interests in such iQ Midco Propco (but without any other guarantee or recourse to such immediate parent company) in favour of iQ Midco, any member of the iQ Midco Group or any finance party in relation to the iQ Midco Group; and
  - (e) have any iQ Midco Propco provide a guarantee or any other security over the iQ Midco Assets, in favour of iQ Midco, any member of the iQ Midco Group or any finance party in relation to the iQ Midco Group ((a), (b), (c), (d) and (e), each, an “**iQ Midco Security**”).
- 5.4 Scape Living and the Company shall, on written request of iQ Midco, take all steps required to facilitate the grant (or procure (to the extent within its control) the granting) of any iQ Midco Security.

## **6 DISPUTE ESCALATION PROCEDURE**

- 6.1 Any material dispute relating to the affairs of the Company or the rights of the Shareholders in the Company shall be dealt with in accordance with the dispute escalation procedures set out in clause 30 of the Separation Agreement, as if such dispute constituted a “Dispute” thereunder.

## **7 INFORMATION RIGHTS**

### General right

- 7.1 The Company agrees with each Shareholder that it (a) will maintain effective and appropriate control systems in relation to the financial, accounting and record keeping functions of the Group, taking into account the requests and specifications made by any Shareholder, (b) will generally keep Scape Living informed of the progress of the business and affairs of, and matters relating to, each Scape Propco and each Group Company which is not a Scape Propco or iQ Midco Propco, and (c) will generally keep iQ Midco informed of the progress of the business and affairs of, and matters relating to, each iQ Midco Propco and each Group Company which is not a Scape Propco or iQ Midco Propco.

### Specific rights

- 7.2 Without limiting the generality of Clause 7.1, the Company shall, or shall procure any Group Company to:
- (a) provide the following to each Shareholder:
    - (i) for each financial year, the annual consolidated accounts of the Group for such financial year, as soon as reasonably practicable and in any event within 120 calendar days of the end of such financial year;
    - (ii) for each financial quarter, the quarterly consolidated accounts of the Group for such financial quarter, as soon as reasonably practicable and in any event within 45 calendar days of the end of such financial quarter;
    - (iii) for each financial month, the monthly consolidated accounts of the Group for such financial month, as soon as reasonably practicable and in any event within 30 calendar days of the end of such financial month;
  - (b) provide each Shareholder with such other financial, tax filing and other information concerning the Group as such Shareholder may from time to time reasonably require (and in that regard shall permit any officer or authorised representative of any Shareholder from time to time upon reasonable prior notice to inspect (and take copies of) such of the books, papers, documents and other records of any Group Company as such person may stipulate);
  - (c) notify the Shareholders promptly of the occurrence of such events as are, in the opinion of the directors, material events with respect to the Group or the Business including:
    - (i) the discovery or receipt of notice of any material default under any agreement to which any Group Company is a party;
    - (ii) any litigation, action, investigation or proceeding is commenced, or is threatened to be, or has a reasonable likelihood of being (based on the existence of any dispute with any person or otherwise), commenced and that is, or any

pending litigation, action, investigation or proceeding that becomes, reasonably likely to:

- (A) have a material adverse effect on the ability of any Group Company to perform its material obligations under its agreements;
  - (B) have a materially adverse effect on the business, liabilities, operations, properties, assets, operating results, prospects or condition (financial or otherwise) of any Group Company;
  - (C) constitute or result in a material breach of any representation, warranty, covenant or agreement set out in any material agreement to which any Group Company is a party:
- (iii) any material casualty, damage, destruction, loss or forfeiture (whether or not covered by insurance and whether or not in the ordinary course of business or consistent with past practice) of or to property of any Group Company;
  - (iv) any material change in any accounting procedures, practices or the basis of accounting of any Group Company;
  - (v) any alteration or change in the business plan or strategy of any Group Company or the discovery of any other transaction, event or circumstance affecting any Group Company which could have a materially adverse effect on the business, liabilities, operations, properties, assets, operating results, prospects or condition (financial or otherwise) of any Group Company;
  - (vi) any material discovery or change in respect of the liabilities (actual or contingent) of any Group Company; or
  - (vii) without limitation of sub-clause (ii), any liability to tax that (A) arises outside the ordinary course of business of any Group Company, or (B) has not been fully provided for in the most recent budget or financial statements, and is or has a reasonable likelihood of being assessed on or otherwise suffered by any Group Company and is reasonably likely to be material in relation to the business, liabilities, operations, properties, assets, operating results, prospects or condition (financial or otherwise) of such Group Company;
- (d) procure that each Shareholder and its advisers are given such information and such access to the officers, employees, records and premises of the Group as the relevant Shareholder may reasonably request; and
  - (e) direct any Group Company's auditors to provide to any Shareholder (at such Shareholder's cost and expense) such information as the relevant Shareholder may reasonably request.

Notwithstanding anything to the contrary in this Clause 7.2, Scape Living shall not be entitled to receive the information listed in paragraphs (a), (b), (d) or (e) of this Clause 7.2 in respect of iQ Midco Propcos or iQ Midco Assets, and iQ Midco shall not be entitled to receive the information listed in paragraphs (a), (b), (d) or (e) of this Clause 7.2 in respect of Scape Propcos or Scape Assets. In respect of paragraph 7.2(c), (a) Scape Living shall not be entitled to receive any information relating to an iQ Midco Propco, which iQ Midco reasonably considers to be commercially sensitive and (b) iQ Midco shall not be entitled to receive any information relating to a Scape Propco, which Scape Living reasonably considers to be commercially sensitive.

### Failure to comply

- 7.3 If the Company fails to comply with the requirements in Clause 7.2 (as determined by a Shareholder acting reasonably), either Shareholder shall be entitled to instruct the Group Company's auditors directly to prepare financial information relating to the Group (or, in the absence of the auditor's agreement within seven calendar days of such Shareholder's request, such Shareholder may appoint another firm of accountants to prepare such financial information at the relevant Group Company's expense).

## **8 GCP WINDING-DOWN**

- 8.1 In anticipation of the GCP Liquidation, the Company in consultation with the Shareholders and with assistance from professional advisors shall wind down the Residual Perimeter, including settling Residual Liabilities and realising Residual Assets.

## **9 EXIT AND LIQUIDATION**

- 9.1 Following completion of the GCP Liquidation in accordance with the Separation Agreement, the Shareholders acknowledge and agree that they shall consult with each other and co-operate in relation to the winding up and liquidation by way of solvent dissolution of Bidco (such that all capital contributions of Bidco can be repaid to partners in full in the manner and amounts contemplated by the Separation Agreement), followed by the winding up and liquidation by way of solvent members' voluntary liquidation of the General Partner.

## **10 RESTRICTIONS ON TRANSFER OF SECURITIES**

- 10.1 No transfer of Securities by a Shareholder shall be permitted, except with the prior written consent of the other Shareholder.
- 10.2 Notwithstanding the foregoing, in connection with a proposed transfer of Securities by a Shareholder (after having received any prior written approval of the other Shareholder as required pursuant to Clause 10.1), the Company will provide, and will cause any Group Company to provide, such cooperation as may be reasonably requested by such Shareholder in connection with any prospective purchaser's due diligence investigation of the Group, including providing such proposed purchaser with reasonable access to the material contracts, properties, books and records of the Group and reasonable access to management on reasonable notice, subject to any such prospective purchaser entering into a customary confidentiality agreement in favour of the Company. Notwithstanding the foregoing, in respect of a prospective purchaser of Securities held by Scape Living such cooperation shall not extend to access to any information in respect of iQ Midco Propcos or iQ Midco Assets and, in respect of a prospective purchaser of Securities held by iQ Midco such cooperation shall not extend to access to any information in respect of Scape Propcos or Scape Assets.
- 10.3 For the purposes of this Agreement, a "Permitted Transferee" means:
- (a) with respect to iQ Midco, any member of the iQ Midco Group; and
  - (b) with respect to Scape Living, any member of the Scape Group.
- 10.4 Notwithstanding the foregoing, no Shareholder shall avoid the restrictions on transfers of Securities of this Clause 10 by making one or more transfers to one or more Permitted Transferees and then disposing of all or any portion of such Shareholder's interest in such Permitted Transferee. For the avoidance of doubt, it is understood that, with respect to each Shareholder, a bona fide direct or indirect transfer of limited partnership interests in a limited partnership private equity fund affiliated with or managed by any Affiliate of the Shareholders,

as the case may be, or of any person that holds a direct or indirect interest in such private equity fund, to another partner or to a third party shall not be deemed a transfer of Securities.

10.5 Any Shareholder may at any time, with the prior written consent of the other Shareholder (such consent not to be unreasonably withheld, delayed or conditioned), transfer any Securities to any Permitted Transferee of such Shareholder, provided that:

- (a) such Permitted Transferee has executed a Deed of Adherence;
- (b) if such Permitted Transferee ceases to constitute a Permitted Transferee in respect of the Shareholder from whom any Securities held by such Permitted Transferee were transferred (the "Original Holder"), such Permitted Transferee shall immediately:
  - (i) notify the other Shareholder and the Board; and
  - (ii) transfer any Securities held by such Permitted Transferee to the Original Holder.

10.6 Any transfer or attempted transfer of any Securities in violation of any provision of this Agreement or the Articles shall be void and of no effect, and no Group Company shall give effect to such transfer nor record such transfer in any register nor treat any purported transferee of such Securities as the legal or beneficial owner or holder of such Securities for any purpose.

## 11 WARRANTIES AND INDEMNITIES

### Scape Living's warranties

11.1 Scape Living warrants to iQ Midco and the Company that this Agreement constitutes the legal, valid and binding obligation of Scape Living, enforceable in accordance with its terms, and the execution, delivery and performance of this Agreement by Scape Living does not and will not conflict with, violate or cause a breach of any agreement, contract or instrument to which Scape Living is a party or any judgment, order or decree to which Scape Living is subject.

### iQ Midco's warranties

11.2 iQ Midco warrants to Scape Living and the Company that this Agreement constitutes the legal, valid and binding obligation of iQ Midco, enforceable in accordance with its terms, and the execution, delivery and performance of this Agreement by iQ Midco does not and will not conflict with, violate or cause a breach of any agreement, contract or instrument to which iQ Midco is a party or any judgment, order or decree to which iQ Midco is subject;

11.3 iQ Midco warrants to Scape Living that:

- (a) the Company's issued share capital currently consists 100 ordinary shares of £0.01 each, following a subdivision of the 1 ordinary share of £1.00 which was issued to iQ Midco at par, which 100 ordinary shares continue to be held by iQ Midco;
- (b) the Company is the general partner of Bidco;
- (c) iQ Midco is the sole limited partner in Bidco, having made contributions of £1.00; and
- (d) since its incorporation, the Company has not (either in its own capacity or as a general partner of Bidco):
  - (i) carried out any trading activities;

- (ii) incurred any liabilities or acquired any assets; or
- (iii) had any employees.

Company's warranties

11.4 The Company warrants to Scape Living and iQ Midco that this Agreement constitutes the legal, valid and binding obligation of the Company, enforceable in accordance with its terms, and the execution, delivery and performance of this Agreement by the Company does not and will not conflict with, violate or cause a breach of any agreement, contract or instrument to which the Company is a party or any judgment, order or decree to which the Company is subject.

**12 DEEDS OF ADHERENCE**

12.1 Any person who has entered into a Deed of Adherence pursuant to this Agreement shall have the benefit of and be subject to the burden of all the provisions to this Agreement as if he were a Party in the capacity designated in the Deed of Adherence, and this Agreement shall be interpreted accordingly. Without limiting the general nature of this provision where the person is designated as:

- (a) a Permitted Transferee of Scape Living in the Deed of Adherence, they shall be entitled to the benefit of all representations, warranties and undertakings given to Scape Living under this Agreement; and
- (b) a Permitted Transferee of iQ Midco in the Deed of Adherence, they shall be entitled to the benefit of all representations, warranties and undertakings given to iQ Midco under this Agreement.

Nothing in this Clause 12.1 shall be construed as requiring any Party to perform again any obligation or discharge again any liability already performed or discharged or entitle any Party to receive again any benefit already enjoyed.

**13 CONFLICT WITH ARTICLES**

With respect to the administration and management of the Company, the Parties shall comply with the provisions of the law of England and Wales applicable to the Company, the provisions of this Agreement and the Articles, provided that, in the event of a conflict between this Agreement and the Articles, each Party:

- (a) agrees this Agreement shall prevail between the Parties; and
- (b) undertakes to procure that the Articles shall be amended as soon as reasonably practicable to be consistent with this Agreement, so far as possible in accordance with England and Wales law.

**14 CONFIDENTIALITY**

14.1 Each Shareholder undertakes to each other Shareholder and the Company that such Shareholder shall, both during and after the term of this Agreement, comply with the confidentiality provisions set out in clause 28 of the Separation Agreement, as if such provisions were set out in full herein.

**15 TERMINATION**



- 15.1 Subject to Clause 15.2, this Agreement shall terminate and be of no further force or effect (i) if neither Shareholder nor their respective Permitted Transferees remain shareholders of the Company or (ii) upon the agreement of the Shareholders to terminate this Agreement.
- 15.2 On termination of this Agreement, Clauses 14 and 18 shall survive and continue in full force and effect but all other rights and obligations of the Shareholders shall cease immediately. Termination shall not affect the Parties' accrued rights and obligations as at such termination.
- 15.3 If any Shareholder ceases to hold any Securities, this Agreement shall cease to apply to such Shareholder, provided that such Shareholder's accrued rights and obligations shall survive.

## 16 NOTICES

- 16.1 A notice (including any approval, consent or other communication) given in connection with this Agreement must be in writing and must be given by one or more of the following methods:
- (a) by hand (including by courier or process server) to the address of the addressee;
  - (b) by pre-paid first class post to the address of the addressee; or
  - (c) by email to the email address of the addressee,

being the address or email address specified in clause 16.2 in relation to the Party or Parties to whom the notice is addressed, and marked for the attention of the person so specified, or to such other address in the United Kingdom or the Netherlands (as applicable) or email, or marked for the attention of such other person, as the relevant Party may from time to time specify by notice given to all of the other Parties in accordance with this clause.

- 16.2 The relevant address and specified details for each of the Parties at the date of this Agreement is as follows:

<p><b>Scape Living</b> <b>Address:</b> 8 Sackville Street, London, United Kingdom, W1S 3DG <b>Email:</b> [REDACTED] <b>For the attention of:</b> [REDACTED] <b>Copy to:</b> Simmons &amp; Simmons LLP, CityPoint, 1 Ropemaker St, London EC2Y 9SS, United Kingdom <b>For the attention of:</b> [REDACTED]</p>
<p><b>iQ Midco</b> <b>Address:</b> 12 St. James's Square, London, England, SW1Y 4LB <b>Email:</b> [REDACTED] <b>For the attention of:</b> [REDACTED] <b>Copy to:</b> Kirkland &amp; Ellis International LLP, 30 St Mary Axe, London, EC3A 8AF</p>



<p><b>For the attention of:</b> [REDACTED]</p>
<p><b>The Company</b>  <b>Address:</b> 12 St. James's Square, London, England, SW1Y 4LB  <b>Email:</b> [REDACTED]  <b>For the attention of:</b> [REDACTED]  <b>Copy to:</b> Kirkland &amp; Ellis International LLP, 30 St Mary Axe, London, EC3A 8AF  <b>For the attention of:</b> [REDACTED]</p>

- 16.3 Subject to clause 16.4, a notice is deemed to be received and therefore to have been given;
- (a) in the case of a notice given by hand (including by courier or process server), at the time when the notice is left at the relevant address;
  - (b) in the case of a notice given by posted letter, on the third day after posting; and
  - (c) in the case of a notice sent by email, at the time the email is sent (if no delivery failure is reported to or at the senders' email server).

16.4 A notice deemed to be received in accordance with clause 16.3 on a day which is not a Business Day or after 5pm (local time in the place of receipt) on any Business Day shall be deemed to have been received on the next following Business Day.

16.5 Any Party delivering a notice under this Agreement shall at such time on the same date send an email to the other Parties confirming that such notice has been sent. Failure by the sender to deliver such copy notice to the recipient by email shall not invalidate the service or delivery of the original notice (or delay the time of deemed service or delivery under clause 16.3).

**17 MISCELLANEOUS**

Costs

17.1 Each Party shall bear its costs in accordance with clause 29.2 of the Separation Agreement.

Assignment

17.2 No Shareholder may assign any of its rights under this Agreement, except with the prior written consent of the other Shareholder.

No partnership or agency

17.3 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party.

Rights of third parties

17.4 This Agreement does not confer any rights on any person or party under the Contracts (Rights of Third Parties) Act 1999.

17.5 The Parties may rescind, vary or terminate this Agreement in accordance with its terms without the consent of any Group Company (other than the Company).

#### Entire agreement

17.6 This Agreement together with the other Transaction Documents constitute the whole agreement between the Parties relating to its subject matter to the exclusion of any terms implied in law that may be excluded by contract. This Agreement supersedes and extinguishes any and all prior discussions, correspondence, negotiations, drafts, arrangements, understandings or agreements relating to such subject matter.

#### Remedies

17.7 The rights and remedies conferred on any Party by, or pursuant to, this Agreement are cumulative, and, except as expressly provided in this Agreement, are in addition to, and not exclusive of, any other rights and remedies available to such Party at law or in equity.

#### Amendments and Waiver

17.8 Any amendment, modification, supplement or waiver to or of any provision of this Agreement or the Articles will require the prior written approval of each Shareholder.

17.9 Any waiver of any term or condition of this Agreement, waiver of any breach of any term or condition of this Agreement, or waiver of, or election whether or not to enforce, any right or remedy arising under this Agreement or at law, must be in writing and signed by or on behalf of the person granting the waiver, and no waiver or election shall be inferred from a Party's conduct.

17.10 Any waiver of a breach of any term or condition of this Agreement shall not be, or be deemed to be, a waiver of any subsequent breach.

17.11 No course of dealing or failure to enforce any provision of this Agreement at any time or for any period shall not waive that or any other provision or the right subsequently to enforce all provisions of this Agreement.

17.12 Failure to exercise, or delay in exercising, any right or remedy shall not operate as a waiver or be treated as an election not to exercise such right or remedy, and single or partial exercise or waiver of any right or remedy shall not preclude its further exercise or the exercise of any other right or remedy.

17.13 The execution of a Deed of Adherence by any person shall not be considered a modification, amendment or waiver of any provision of this Agreement.

#### Severance

17.14 If any provision of this Agreement is held to be invalid or unenforceable by any judicial or other competent authority, all other provisions of this Agreement will remain in full force and effect and will not in any way be impaired.

17.15 If any provision of this Agreement is held to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted or amended, the provision in question will apply with the minimum modifications necessary to make it valid and enforceable.

### Execution

- 17.16 This Agreement may be executed in any number of counterparts, but shall not be effective until each Party has executed and delivered at least one counterpart. Each counterpart constitutes an original, and all the counterparts together constitute one and the same agreement.
- 17.17 If this Agreement is executed in duplicate, each duplicate constitutes an original.

## **18 GOVERNING LAW AND JURISDICTION**

### Governing law

- 18.1 This Agreement and any non-contractual obligations arising out of or in connection with this Agreement are governed by and shall be construed in accordance with the laws of England and Wales.


### Jurisdiction

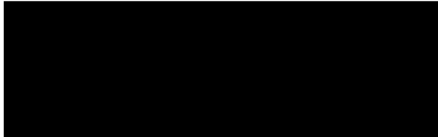
- 18.2 The Parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement (including a dispute relating to any non-contractual obligation arising out of or in connection with either this Agreement).

**AS WITNESSED** whereof this Agreement has been duly executed as of the day and year first above written.

Executed by:

**GEMINI JERSEY JV GP LIMITED**


Acting by: 



Authorised Signatory

Executed by:

**SCAPE HOLDCO 1 LTD**


Acting by: 



\_\_\_\_\_  
Authorised Signatory

Executed by:

**CAPELLA UK MIDCO 4 LIMITED**

Acting by: 



Authorised Signatory

**SCHEDULE 1  
DEED OF ADHERENCE**

**DATE:** [●] 20[●]

This deed of adherence (this “Deed”) is made by [●] (the “New Shareholder”).

**INTRODUCTION**

By a shareholders’ agreement relating to Bidco GP between Scape Living, iQ Midco and Bidco GP dated [●] 2021 (the “Agreement”) and to which [●] (the “Transferor”) is a party [by virtue of a Deed of Adherence dated [●]], the Transferor has agreed to sell and transfer to the New Shareholder [*number and class of Ordinary Shares*] conditional upon the New Shareholder entering into this Deed of Adherence.

- (A) The New Shareholder wishes to acquire those Ordinary Shares, and to enter into this Deed of Adherence in accordance with the Agreement.

**OPERATIVE PROVISIONS**

1. The New Shareholder undertakes to and covenants with all the Parties from time to time (including any person who enters into a Deed of Adherence pursuant to the Agreement whether before or after this Deed is entered into) to comply with the provisions of and to perform all the obligations in the Agreement in so far as they remain to be observed and performed, as if the New Shareholder had been an original party to the Agreement in place of the Transferor as a Shareholder.
2. The Transferee’s name, address and email address is set out in columns (1), (2) and (3), respectively, of the table below.

(1) Name	(2) Address	(3) Email Address
[●]	[●]	[●]

3. Except as expressly varied by this Deed, the Agreement shall continue in full force and effect, and the Agreement shall be interpreted accordingly.
4. This Deed and any non-contractual obligations arising out of or in connection with this Deed are governed by and shall be construed in accordance with the laws of England and Wales and the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Deed (including a dispute relating to any non-contractual obligation arising out of or in connection with either this Deed).
5. This Agreement is executed as a deed and is delivered and takes effect on the date at the beginning of this Deed.