

**Date**

23 January

**2023**

**CASTELNAU GROUP LIMITED**

**THE PAMP AFFILIATES**

**YELLOW (SPC) BIDCO LIMITED**

**SHARE EXCHANGE AGREEMENT**

**relating to the acquisition of certain shares in the capital of Dignity Plc**

**MACFARLANES**

Macfarlanes LLP  
20 Cursitor Street  
London EC4A 1LT

**DATE**

23 January

2023

**PARTIES**

- 1 **CASTELNAU GROUP LIMITED** (registered in Guernsey under number 67529) whose registered office is PO Box 255, Les Banques, Trafalgar Court, St. Peter Port, Guernsey GY1 3QL ("**Castlenau**")
- 2 **THE PERSONS** other than Castelnau whose names and addresses are set out in the schedule (together the "**PAMP AFFILIATES**")
- 3 **YELLOW (SPC) BIDCO LIMITED** (registered in England and Wales under number 14417289) whose registered office is at 64-66 Glenthams Road, London, United Kingdom, SW13 9JJ ("**Bidco**")

**BACKGROUND**

- A This agreement sets out the terms of the agreement between the parties for the acquisition by Bidco of the shareholdings of the JO Shareholders in Dignity plc.
- B In consideration for such acquisition, Bidco shall issue loan notes in Bidco to each JO Shareholder in accordance with this agreement.

**AGREEMENT**

1 **Definitions and interpretation**

- 1.1 The background section and schedule form part of this agreement and have the same force and effect as if set out in the body of this agreement. Any reference to this agreement includes the background section and the schedule.
- 1.2 In this agreement, the following words and expressions have the following meanings:

**Business Day:** any day other than a Saturday, Sunday or any other day which is a public holiday in England;

**CG2 Loan Notes:** the unsecured CG2 loan notes of £1.00 each constituted under a loan note instrument executed by Bidco on or around the date of this agreement;

**CREST:** means the relevant system (as defined in the Uncertificated Securities Regulations 2001 (SI 2001/3755)) in respect of which Euroclear UK & Ireland Limited is the Operator (as defined in such Regulations) in accordance with which securities may be held and transferred in uncertificated form;

**E Loan Notes:** the unsecured E loan notes of £1.00 each constituted under a loan note instrument executed by Bidco on or around the date of this agreement;

**Encumbrance:** any interest or equity of any person (including any right to acquire, option or right of pre-emption) or any mortgage, charge, pledge, lien, assignment, hypothecation, security interest, restriction, title retention or any other security agreement or arrangement or other third party right, or any agreement, arrangement or obligation to create any of the same;

**JO Shareholders:** Castelnau and the PAMP Affiliates;

**Notice:** any notice or communication of any kind given under or in connection with this agreement (together with any accompanying papers);

**Offer:** the proposed acquisition by Bidco of the entire issued, and to be issued, Ordinary Shares not already owned or controlled by each JO Shareholder by way of a

Takeover Offer (or, if Bidco elects, with the consent of the UK Panel on Takeovers and Mergers, by way of a Scheme of Arrangement) the terms of which are set out in the announcement made by Bidco on or around the date of this agreement under Rule 2.7 of the Takeover Code, and any subsequent revision or variation thereof;

**Ordinary Shares:** means ordinary shares of 12.3357p in the capital of the Target;

**Parties:** the parties to this agreement;

**Scheme of Arrangement:** a scheme of arrangement of the Target to implement the Offer under Part 26 of the Companies Act 2006;

**Takeover Offer:** a takeover offer to implement the Offer;

**Target:** Dignity Plc; and

**Target Shares:** in respect of a JO Shareholder the number of Ordinary Shares set out opposite that JO Shareholders' name in column 3 of the schedule to this agreement and as may be amended to reflect such transfers contemplated by clause 4 of this agreement.

1.3 In this agreement, unless otherwise specified any reference to:

1.3.1 any statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, whether before, on, or after the date of this agreement; and

1.3.2 any legislation (whether of the United Kingdom or elsewhere), including to any statute, statutory provision or subordinate legislation ("**Legislation**") includes a reference to that Legislation as from time to time amended or re-enacted, whether before, on, or after the date of this agreement. Re-enactment includes consolidation and rewriting, in each case whether with or without modification.

1.4 In this agreement (unless the context requires otherwise):

1.4.1 any reference to a "**person**" includes a natural person, firm, partnership, company, body corporate, corporation, association, organisation, government, state, foundation and trust (whether or not having separate legal personality);

1.4.2 any reference to "**costs**" and/or "**expense**" incurred by a person shall not include any amount in respect of VAT comprised in such costs or expenses for which either that person or, if relevant, any other member of the VAT group to which that person belongs is entitled to credit as input tax;

1.4.3 any phrase introduced by the terms "**including**", "**include**", "**in particular**" or a similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;

1.4.4 any reference to a "**day**" shall mean a period of 24 hours running from midnight to midnight;

1.4.5 references to times are (save where otherwise stated) to that time in London;

1.4.6 words and expressions which are defined in the Companies Act 2006 and which are not otherwise defined in this agreement have the same meanings as are given to them in the Companies Act 2006; and

- 1.4.7 any reference to this agreement or to any other document is a reference to this agreement or that other document as validly amended, varied, supplemented, or novated (in each case, other than in breach of the provisions of this agreement) at any time.

## 2 **Conditions**

- 2.1 The obligations of the JO Shareholders and Bidco in clause 3 are in each case conditional in all respects upon the first to occur of:

- 2.1.1 the Offer becoming unconditional;
- 2.1.2 the Offer being capable of being declared unconditional; and
- 2.1.3 the Offer being capable of being declared unconditional but for the satisfaction of the acceptance condition (condition 1 to the Offer), provided that the Offer would be capable of being declared unconditional following compliance with clause 3.1.1 and 3.1.2,

or, if Bidco elects to effect the Offer by way of a Scheme of Arrangement, upon the Scheme of Arrangement becoming effective in accordance with its terms,

(the “**Condition**”). For the purposes of establishing whether the Offer is capable of being declared unconditional, if a condition to the Offer is waivable but has not been waived, the Offer shall not be capable of being declared unconditional.

- 2.2 If:

- 2.2.1 the Takeover Offer lapses or is withdrawn and Bidco publicly confirms that it does not intend to proceed with the Offer or to implement the Offer by way of a Scheme of Arrangement; or
- 2.2.2 Bidco elects to implement the Offer by way of a Scheme of Arrangement and the Scheme of Arrangement lapses or is withdrawn in accordance with its terms,

this agreement will terminate in full and cease to have any effect on and from the date of the occurrence of such an event.

## 3 **Share Exchange**

- 3.1 Following the satisfaction of the Condition, the JO Shareholders and Bidco shall take or procure to be taken the following actions on the date on which the Condition is satisfied (or such other time as the parties may agree), which shall be deemed to take place simultaneously:

- 3.1.1 each JO Shareholder shall transfer or procure the transfer of the Target Shares with full title guarantee and free from Encumbrances to Bidco and Bidco shall acquire the Target Shares;
- 3.1.2 in satisfaction of clause 3.1.1, each JO Shareholder shall in respect of the Target Shares procure the execution of stock transfer forms in relation to the Target Shares which are held in certificated form in favour of Bidco and shall deliver the same to Bidco together with the share certificates relating to such shares (or an express indemnity in the case of any lost certificate);
- 3.1.3 Bidco shall, in consideration of the share transfer referred to in clauses 3.1.1 and 3.1.2 above, issue to the relevant JO Shareholder or its nominee the number of CG2 Loan Notes or E Loan Notes set out opposite its name in column 4 of the schedule to this agreement; and

- 3.1.4 Bidco agrees to bear and pay the cost of all stamp duty, stamp duty reserve tax and any similar transfer taxes (including any penalties, charges and interest relating to any of them) payable on or as a result of the execution of this agreement or arising as a result of the transfer of the Target Shares pursuant to or in accordance with this agreement.

## 4 **Transfer**

It is acknowledged that, prior to the Condition being satisfied, Multi-Manager Investment Programmes PCC Limited may transfer all of its holding of Target Shares to Phoenix UK Fund Limited. If such transfer occurs:

- 4.1 the number of Target Shares set out opposite the name of Multi-Manager Investment Programmes PCC Limited in column 3 of the schedule shall be automatically amended to read "zero";
- 4.2 the numbers and words set out opposite the name of Multi-Manager Investment Programmes PCC Limited in column 4 of the schedule shall be automatically amended to read "0 CG2 Loan Notes";
- 4.3 the number of Target Shares set out opposite the name of Phoenix UK Fund Limited in column 3 of the schedule shall be automatically amended to read "830,407"; and
- 4.4 the number set out opposite the name of Phoenix UK Fund Limited in column 4 of the schedule shall be automatically amended to read "4,567,238".

## 5 **General**

### 5.1 **Further assurance**

The Parties shall, each at its own expense, do or procure to be done all such further acts and things and execute or procure the execution of all such other documents, if any, as the other Party may reasonably require for the purpose of giving the other Party the full benefit of the provisions of this agreement.

### 5.2 **Acknowledgement**

Each JO Shareholder acknowledges that it has no entitlement to cash pursuant to the Offer.

### 5.3 **Entire agreement**

- 5.3.1 For the purposes of this clause 5.2, "**Pre-Contractual Statement**" means any statement, undertaking, promise, assurance, warranty, understanding or any representation or misrepresentation (whether contractual or non-contractual and whether negligently or innocently made) relating to the subject matter of this agreement, whether in writing or not and whether made by or to any person (whether a Party or not).
- 5.3.2 This agreement constitutes the entire agreement and understanding of the Parties and supersedes any prior agreement, draft agreement, arrangement or understanding (whether in writing or not) between the Parties relating to the subject matter of this agreement.
- 5.3.3 Each of the Parties acknowledges and agrees that in entering into this agreement it does not rely on any Pre-Contractual Statement.
- 5.3.4 Each of the Parties acknowledges and agrees that:
- 5.3.4.1 the only remedy available to it (i) in relation to any Pre-Contractual Statement (ii) for misrepresentation by

omission or (iii) otherwise in relation to this agreement shall be for breach of contract under the terms of this agreement; and

5.3.4.2 except as set out in clause 5.3.4.2, it shall have no right of action (including the right of rescission or termination) against any other Party in respect of any Pre-Contractual Statement, omission or otherwise in relation to this agreement.

#### **5.4 Rescission and termination**

In the event of any breach of this agreement or in any other circumstances, no Party shall be entitled to rescind or otherwise terminate this agreement unless otherwise expressly agreed by the Parties in writing.

#### **5.5 Costs and expenses**

Save as otherwise stated in this agreement, each Party shall pay its own costs and expenses of and incidental to the negotiation, preparation, execution and implementation by it of this agreement, of any document referred to in it and the sale and purchase of the Target Shares.

#### **5.6 Assignment**

No Party may at any time assign, transfer, charge or deal in any other manner with this agreement or any of its rights under it without the prior written consent of the other Party.

#### **5.7 Variation**

This agreement may only be varied or any of its provisions waived by the agreement in writing of (or on behalf of) each of the Parties from time to time or, in the case of a waiver, the Party waiving compliance.

#### **5.8 Counterparts**

This agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, and all the counterparts or duplicates together shall constitute one and the same instrument.

#### **5.9 Third party rights**

5.9.1 The Parties agree that, subject always to and save as expressly provided in the provisions of this clause 5.9 and clause 5.6 (*Assignment*) no term of this agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.

5.9.2 Notwithstanding that any term of this agreement may be or become enforceable by a third party, the terms of this agreement or any of them may be varied in any way or waived or this agreement may be rescinded in accordance with the terms of this agreement (in each case) without the consent of any such third party.

5.9.3 Any rights granted to, or enforceable by, a third party under this agreement may be enforced only in accordance with clause 6 (*Governing law and jurisdiction*).

## 6 Notices

6.1 To be valid, a Notice must be in writing and sent by one of the methods set out in clause 6.2.

6.2 Each Notice shall be:

6.2.1 delivered by hand (including by courier) to the postal address specified for the recipient in clause 6.3;

6.2.2 sent by pre-paid first-class post or (if from an address outside the United Kingdom) pre-paid airmail to the postal address specified for the recipient in clause 6.3; or

6.2.3 sent by email to the email address specified in clause 6.3.

6.3 The details of the Parties for the purposes of clause 6.2 are:

Party	Postal address	Email address
Castelnau	64-66 Glenthams Road, London, United Kingdom, SW13 9JJ	[REDACTED] [REDACTED]
The PAMP Affiliates	64-66 Glenthams Road, London, United Kingdom, SW13 9JJ	[REDACTED] [REDACTED]
Yellow (SPC) Bidco Limited	64-66 Glenthams Road, London, United Kingdom, SW13 9JJ	[REDACTED] [REDACTED] [REDACTED]

6.4 Subject to clause 6.5, a Party may, by notice to the others, change any of its details in clause 6.3. That change shall take effect from the later of the date specified for that purpose in the notice and the date falling five Business Days after the Notice is deemed received.

6.5 No Party may change its postal address pursuant to clause 6.4 to an address outside the United Kingdom. Any attempt to do so is void.

6.6 Except as provided otherwise by this clause 6, a Notice is deemed received at the following time:

Method of delivery	Time at which Notice deemed received
By hand or courier	The time at which it is left at the appropriate address
By first-class post	At 9.00 a.m. on the second Business Day after the date of posting
By airmail	At 9.00 a.m. on the fifth Business Day after the date of posting
By email	The time at which the email is sent

- 6.7 Where, by virtue of clause 6.6, a Notice would be deemed received:
- 6.7.1 on a Business Day before 9.00 a.m., it is instead deemed received at 9.00 a.m. on that Business Day; or
  - 6.7.2 on a day that is not a Business Day, or on a Business Day after 5.00 p.m., it is instead deemed received at 9.00 a.m. on the next Business Day.
- 6.8 Where a Notice is sent by email:
- 6.8.1 that Notice is not deemed received unless the sender receives a delivery receipt for that email;
  - 6.8.2 if the sender receives a server-generated response informing the sender that the email has not been delivered, that Notice is not deemed received unless the sender is subsequently informed by that server, the intended recipient or the person for whose attention it was marked that it has been delivered,
- but (in either case), once the Notice is deemed received, it is nonetheless deemed received at the time stated in clause 6.6.
- 6.9 Where a Notice is sent by email, subject to clause 6.8, that Notice is deemed received notwithstanding that the sender receives any response (including any “out of office” response) generated automatically pursuant to any rule set by the intended recipient of that Notice, any person on that intended recipient’s behalf or any person who has authority generally to set such a rule for persons within that intended recipient’s organisation.
- 6.10 Notwithstanding clauses 6.6 and 6.8, where it is shown that a Notice was in fact received before the time at which it is deemed received under those clauses, it shall be deemed received at the time of actual receipt.

## **7 Governing law and jurisdiction**

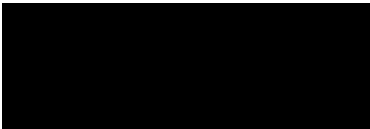
- 7.1 This agreement is governed by and shall be construed in accordance with the laws of England. Non-contractual obligations (if any) arising out of or in connection with this agreement (including its formation) shall also be governed by the laws of England.
- 7.2 The Parties submit to the exclusive jurisdiction of the courts of England and Wales as regards any claim, dispute or matter (whether contractual or non-contractual) arising out of or in connection with this agreement or any of the documents to be entered into pursuant to this agreement (including their formation).

**Signed** on the date set out at the head of this agreement.



**SIGNED** by Joanne Peacegood

a director, for and on behalf )  
of **CASTELNAU GROUP**  
**LIMITED** )



.....

Director

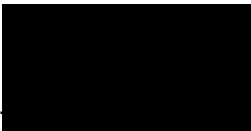
**SIGNED** by **PHOENIX UK )**  
**FUND LIMITED,** by  
**PHOENIX ASSET )**  
**MANAGEMENT**  
**PARTNERS LIMITED** its )  
investment manager acting  
by Steve Tatters (a director)

.....  
Director

SIGNED by SANOFI- )  
AVENTIS PENSIONS )  
TRUST LIMITED, by )  
PHOENIX ASSET )  
MANAGEMENT )  
PARTNERS LIMITED its )  
investment manager acting )  
by Steve Tatters (a )  
director)

 .....  
Director

SIGNED by MULTI- )  
MANAGER INVESTMENT )  
PROGRAMMES PCC )  
LIMITED, by PHOENIX )  
ASSET MANAGEMENT )  
PARTNERS LIMITED its )  
investment manager acting )  
by Steve Tatters (a )  
director)

  
.....  
Director

SIGNED by CAMBRIDGE )  
UNIVERSITY )  
ENDOWMENT FUND, by )  
PHOENIX ASSET )  
MANAGEMENT )  
PARTNERS LIMITED its )  
investment manager acting )  
by Steve Tatters (a )  
director)

.....  
Director

**SIGNED** by **PENTARIS** )  
**QIAIF PLC, by PHOENIX** )  
**ASSET MANAGEMENT** )  
**PARTNERS LIMITED** its )  
investment manager acting )  
by Steve Tatters (a )  
director) )

.....

Director

SIGNED by AURORA )  
INVESTMENT TRUST PLC,  
by PHOENIX ASSET )  
MANAGEMENT  
PARTNERS LIMITED its )  
investment manager acting  
by Steve Tatters (a )  
director)

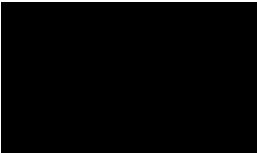
.....  .....  
Director

**SIGNED** by **HEMERA** )  
**FOUNDATION,** by )  
**PHOENIX** **ASSET** )  
**MANAGEMENT** )  
**PARTNERS LIMITED** its )  
investment manager acting )  
by Steve Tatters (a )  
director)

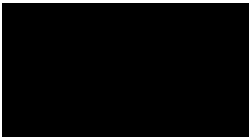
Director



**SIGNED** by **HUGGIN FUND,** )  
by **PHOENIX ASSET** )  
**MANAGEMENT** )  
**PARTNERS LIMITED** its )  
investment manager acting )  
by **Steve Tatters** (a )  
director) )

.....  
.....  
Director

**SIGNED** by Nick Edwards )  
a director, for and on behalf )  
of **YELLOW (SPC) BIDCO** )  
**LIMITED** )



Director

.....

## THE SCHEDULE

Column 1 Name	Column 2 Address	Column 3 Target Shares	Column 4 Loan Notes
Castelnau Group Limited	PO Box 255, Les Banques, Trafalgar Court, St. Peter Port, Guernsey GY1 3QL	10,361,149	56,986,319 E Loan Notes
Phoenix UK Fund Limited	One Montague Place, 1 <sup>st</sup> Floor, East Bay Street, PO Box N- 4906, Nassau, Bahamas	542,972	2,986,346 CG2 Loan Notes
Sanofi-Aventis Pensions Trust Limited	410 Thames Valley Park Drive, Reading, Berkshire, England, RG6 1PT	106,391	585,150 CG2 Loan Notes
Multi-Manager Investment Programmes PCC Limited	PO Box 255, Trafalgar Court, Les Banques, St Peter Port, Guernsey, GY1 3QL	287,435	1,580,892 CG2 Loan Notes
Cambridge University Endowment Fund	Daedalus House, 1 <sup>st</sup> Floor, 26- 30 Station Road, Cambridge, CB1 2RE	1,046,731	5,757,020 CG2 Loan Notes
Pentaris QIAIF plc	George's Court, 54/62 Townsend Street, Dublin 2, Ireland	2,380,670	13,093,685 CG2 Loan Notes
Aurora Investment Trust plc	Crusader House, 145 St John Street, London, EC1V 4RU	53,813	295,971 CG2 Loan Notes
Hemera Foundation	19 Par-la-Ville Road, 1st Floor, Hamilton, HM11, Bermuda	5,998	32,989 CG2 Loan Notes
Huginn Fund	CIBC Bank and Trust Company (Cayman) Limited, CIBC Financial Centre, 11 Dr. Roy's Drive, P.O. Box 694, Grand Cayman KY1 1107	91,000	500,500 E Loan Notes