

**PERSHING SQUARE HOLDINGS, LTD.**  
(the “Company”)

**TERMS OF REFERENCE FOR THE BOARD**  
APPROVED 11 FEBRUARY 2020

**Role of the Board of Directors**

1. The board of directors of the Company (the “Board”) is collectively responsible for promoting the long-term sustainable success of the Company and generating value for shareholders by directing and supervising the Company’s affairs.

**Composition**

2. The Board will be comprised of a minimum of two and a maximum of nine directors, unless otherwise determined by the Board. At least one director will be resident in Guernsey and a majority of the Board must consist of directors who are not citizens or residents of the United States.
3. A majority of the Board will be independent non-executive directors who are not affiliated with the investment manager of the Company.
4. The Board is elected by the shareholders of the Company at every annual general meeting of the Company for a term expiring at the next annual general meeting in accordance with Article 33.5 of the Articles of Incorporation of the Company (the “Articles”).
5. The Board may nominate directors for election by shareholders at the next annual general meeting. Between annual general meetings the Board may appoint directors to fill vacancies or additional directors to serve until the next annual general meeting. .
6. The Board will appoint a chairman and senior independent director from among its members who are independent of the investment manager of the Company. The senior independent director will chair any meeting for which the chairman is absent. In the absence of both the chairman and senior independent director of the Company, the remaining members present shall elect one of themselves to chair the meeting.

**Secretary and Resident Agent**

7. The Board will appoint a Guernsey resident agent for the Company.
8. One or more Company secretaries may be appointed by the Board on such terms as the Board deems appropriate.
9. The Company’s secretary will take and prepare the minutes of each meeting of the Board and any committee meetings and will maintain the official minute book and records of other corporate resolutions of the Company. The secretary will ensure that the Board receives information and papers in a timely manner to enable full and proper consideration to be given to issues.
10. The secretary will have the power to authenticate any documents of the Company or relating to the

business of the Company and any resolutions passed by the Company or the Board and to certify copies or extracts as true copies or extracts.

## **Meetings and Resolutions of the Board**

### **11. Attendance**

11.1. All Board members are expected to attend each Board meeting and to arrange their schedules accordingly, although nonattendance may be unavoidable in certain circumstances. Directors participating by any means of communication through which all Directors participating in the meeting are able to communicate with each other are deemed to be present at a meeting.

11.2. Directors who fail to attend meetings for 12 months without making arrangements for their absence may be removed from office by the Board.

11.3. Only members of the Board and the secretary have the right to attend Board meetings. The investment manager will be invited to attend meetings of the Board on a regular basis and other non-members may be invited to attend all or part of any meeting as and when appropriate and necessary.

12. **Quorum:** The minimum quorum necessary for the transaction of business of the Board is two directors.

13. **Frequency:** The Board meets at least four times a year and otherwise as it deems appropriate. The non-executive directors will meet at least once annually without the chairman present to discuss the chairman's performance.

14. **Location:** All meetings of the Board will take place outside of the United States. Meetings are deemed to have been held in the place where the chairman of the meeting is present.

15. **Agenda:** The chairman of the Board, in consultation with the investment manager, will set the agenda for each Board meeting. The agenda will be circulated to members of the Board, who may suggest agenda items to be discussed at the meeting. In accordance with the Association of Investment Companies Code of Corporate Governance (the "AIC Code"), the primary focus at regular board meetings will be a review of investment performance and associated matters.

16. **Notice:** Meetings of the Board shall be called by the Company secretary at the request of the chairman of the Board or the senior independent director. Unless otherwise agreed by the Board, notice of each meeting confirming the venue, time and date together with an agenda of items to be discussed, shall be forwarded to each member of the Board and any other person required or invited to attend, no later than five working days before the date of the meeting. Supporting papers shall be sent to Board members at the same time or otherwise as soon as reasonably practicable.

17. **Resolutions:** The Board may act by written resolution signed by each Director.

18. **Minutes:** The secretary shall minute the proceedings and decisions of all meetings of the Board, including recording the names of those present and in attendance. Draft minutes of Board meetings shall be circulated promptly to all members of the Board for their approval.

## **Remuneration**

19. The Board will determine the remuneration of the directors in accordance with the Remuneration Policy of the Company and will review their remuneration annually. Unless otherwise approved by ordinary resolution, each Director's remuneration shall not exceed £150,000 per annum, the limit set in the Articles.
20. Directors are also entitled to be paid all reasonable expenses properly incurred by them in attending general meetings, board or committee meetings or otherwise in connection with the performance of their duties.
21. The Board may award additional remuneration on a time spent basis in the event Directors are requested by the Board to perform extra or special services on behalf of the Company.

## **Corporate Governance**

22. The Board will at all times strive to maintain high standards of corporate governance.
23. In accordance with the principles of the AIC Code, the Board will:
  - 23.1. establish the Company's purpose, values and strategy, and satisfy itself that these and its culture are aligned;
  - 23.2. ensure that the necessary resources are in place for the Company to meet its objectives and measure performance against them;
  - 23.3. determine the nature and extent of the principal risks the Company is willing to take in order to achieve its long-term strategic objectives;
  - 23.4. establish a framework of prudent and effective controls, which enable risk to be assessed and managed and review the effectiveness of the Company's risk management and internal control systems
  - 23.5. assess the basis on which the Company generates and preserves value over the long-term;
  - 23.6. actively monitor conflicts of interest and Board independence;
  - 23.7. assess and monitor its own culture, including its policies, practices and behaviour to ensure it is aligned with the Company's purpose, values and strategy; and
  - 23.8. ensure effective engagement with, and encourage participation from, shareholders and stakeholders.
24. To maintain the effectiveness of the Board, the chairman of the Board will:
  - 24.1. direct the Company with objective judgement;
  - 24.2. promote a culture of openness and debate;
  - 24.3. ensure that all Directors receive accurate, timely and clear information that facilitates

- constructive contributions by the Board in relation to the management of the Company; and
- 24.4. facilitate a formal annual evaluation of each member of the Board and ensure that the results of the evaluation are properly assessed and any recommendations properly considered and implemented by the Company, if appropriate.
25. Directors must act with integrity, lead by example and promote the Company's culture. Each Director will:
- 25.1. constructively challenge and contribute to the development of the investment strategy;
  - 25.2. scrutinize the performance of the investment manager in meeting the Company's published investment objective and monitor the reporting of performance;
  - 25.3. satisfy themselves that the Company's financial information is accurate and that financial controls and systems of risk-management are robust and defensible;
  - 25.4. devote time to developing and refreshing their knowledge and skills;
  - 25.5. insist on receiving high quality information sufficiently in advance of Board meetings;
  - 25.6. not do anything that would cause them to be disqualified from acting as a director;
  - 25.7. take into account the views of shareholders and other stakeholders, where appropriate; and
  - 25.8. communicate with, and report to, shareholders and, where appropriate, potential investors (including, where applicable, attendance at shareholder or investor meetings and liaising with the investment manager and administrator with regards to the content of reports and announcements).

### **Powers and Duties of the Board**

26. The Board has been granted the power by the Articles to act in its sole discretion to manage the Company and advance the Company's best interests. The Board exercises all the powers of the Company that are not required to be exercised at a general meeting of the Company. These powers include the specific duties enumerated below.
27. In exercising its powers, the Board will give due consideration to applicable law and regulation, the provisions of the AIC Code, the requirements of the Netherlands Authority for the Financial Markets, Euronext Amsterdam, the UK listing Authority, the London Stock Exchange and any other applicable rules, as appropriate.

### **Delegation of Investment Decisions**

28. The Board has engaged an investment manager on behalf of the Company. Under the investment management agreement between the Company and the investment manager, the Board has delegated to the investment manager sole authority to make investment decisions for and to determine how to vote any security held by the Company, and to perform any act the investment manager deems necessary in order to effectuate the investment objective of the Company, including the power to:

- 28.1.1. direct the Company's investment strategies;
  - 28.1.2. establish, modify and change the nature of the Company's positions;
  - 28.1.3. exercise all rights and privileges with respect to ownership or possession of the Company's securities and other assets, including transfers, pledges and the settlement of legal proceedings
  - 28.1.4. open and maintain brokerage accounts and pay brokerage commissions, subject to the consideration of best execution
  - 28.1.5. engage attorneys, accountants and service providers;
  - 28.1.6. incur and pay all expenses on behalf of the Company in connection with the Company's business which it deems necessary or desirable, and to charge or be reimbursed by the Company; and
  - 28.1.7. in a wind-down of the Company, manage the realization and distribution of assets.
29. The investment manager's approval, which should not be unreasonably withheld or delayed, is required for any adoption or modification to policies of the Board or Company documents that affect the powers that have been delegated to the investment manager under the investment management agreement.
30. In recognition that the size of the Company's assets is a key component of the Company's investment strategy, the prior written consent of the investment manager is required under the investment management agreement for any cash or in-kind distributions to shareholders, including dividends or share repurchases.
31. The investment manager's activities are subject to the control of the Board and the Board may request periodic reports regarding its activities. The Board, with the assistance of the Management Engagement Committee, will review the investment manager annually.

## 32. Capital Structure

The Board will determine:

- 32.1. the issuance of shares or classes of shares and their par value, rights, restrictions, currency, preferences and priority;
- 32.2. the treatment for fractions of shares;
- 32.3. the provision of financial assistance in connection with the acquisition of shares of the Company;
- 32.4. whether to declare dividends or other distributions to be made to shareholders, their amount, payment schedule and the method of payment (including whether distributions are to be made in-kind), subject to the prior approval of the investment manager;

32.5. the manner and notice requirements for conversions of Management Shares into Public Shares and conversions of Public Shares into Management Shares, the proportion of Management Shares or Public Shares to be issued; and any charge to be paid by the converting shareholder;

32.6. the record date of and any exclusions to a proportionate offer of shares to ordinary shareholders, including offers to satisfy shareholder preemption rights and the disposal of any shares declined to be taken up;

32.7. when to direct the repurchase of shares of the Company, including their cancellation or retention as treasury shares, subject to the prior approval of the investment manager;

32.8. commissions to be paid in consideration for a subscription for shares or for procuring or agreeing to procure subscriptions for shares

32.9. compulsory share redemptions, including to avoid the application of the share excessing mechanism of Article 24, and whether to cancel redeemed shares or retain them in treasury; and

32.10. the procedure for any capitalization of profits of the Company approved by shareholders.

33. **Accounting Matters**

33.1. The Board will ensure that accounting records are maintained and reports are issued in accordance with applicable law.

33.2. The Board may fill a vacancy in the Company's auditor.

33.3. The Board will prepare and approve an account for each fiscal year of the Company. The accounts must comply with the relevant accounting standards and will present a true and fair view of the financial position of the Company and include a balance sheet and statement of profit and loss. At least one Director will sign the accounts.

33.4. The Board will prepare and approve an directors' report for each fiscal year of the Company. The directors' report must state the principal activities of the Company in the course of the financial year and contain a statement that the directors have made the auditors aware of all relevant audit information.

33.5. The Board oversees the valuation of the assets and liabilities of the Company and the calculation of the net asset value of each share class, including the frequency of the calculation, which accounting principles apply and authorizing any agent performing the valuation.

33.6. The Board may suspend the calculation of the net asset value and will reinstate the calculation in accordance with Article 12.3.

33.7. The Board may make a good faith determination of the fair market value of securities or Company property or may appoint an agent to do so where it determines that the method in the Articles do not result in a fair market valuation.

33.8. The Board may request that the Company's auditor review the Company's valuation methods and may modify the means of calculating the net asset value to comport with good accounting practices.

33.9. The Board will determine whether to take a reserve or set aside assets and the present value of future amounts payable.

33.10. The Board may correct a previously published net asset value or may appoint an agent to do so.

#### 34. **Shareholder Matters**

34.1. If the Board determines that a shareholder has not complied with the shareholding notification requirements of Article 16, the Board may:

34.1.1. suspend the shareholder's voting rights;

34.1.2. withhold dividends or any other amount payable to the shareholder; and

34.1.3. prevent transfer of the shares

34.2. The Board will determine the process for the issuance of original and replacement paper share certificates and will appoint a representative to sign certificates.

34.3. The Board may make calls on unpaid shares, charge interest and expenses on unpaid calls, accept shares surrendered for unpaid calls, declare unpaid shares forfeited and may direct the disposal of forfeited or surrendered shares and the sale of any shares subject to a lien. The Board may deduct unpaid calls from dividends or apply dividends to satisfy a lien on shares.

34.4. The Board may prohibit the allotment or transfer of shares to the persons listed in Article 21.1 ("prohibited US persons") and may require any shareholder the Board believes is a prohibited US person to satisfy the Board to the contrary or to transfer his shares at risk of forfeiture. Shares forfeited by prohibited US persons may be disposed of in the manner determined by the Board.

34.5. The Board will arrange for the surrender and disposal of any shares held by persons it determines are not qualified to hold shares of the Company.

34.6. The Board will select the Company's Registrar and the Trustee to administer the share excessing mechanism of Article 24.

34.7. The Board may modify the Company's restrictions regarding the ownership of shares by Plans (as defined in the Articles), including the excessing mechanism, and may take any action it determines advisable to enforce the restrictions, including compulsory share redemptions. The Board may delegate the enforcement of such limits.

34.8. The Board will determine how to distribute the proceeds of any sale of shares belonging to untraced shareholders.

34.9. The Board will determine how to make use of unclaimed dividends for the benefit of the Company.

34.10. The Board may compel a shareholder to disclose the identity of any other party with an interest in its shares and the nature of the interest and may prevent a noncomplying shareholder

from certain transfers, receiving dividends, attending meetings or voting its shares.

**35. Transfers**

35.1. The Board will approve or will appoint an agent to approve any transfer of shares other than transfers of Public Shares. Transfer of the Special Voting Share requires the unanimous approval of the Board.

35.2. The Board will determine what evidence of ownership is required and the form of the instrument of transfer for transfers of certificated shares.

35.3. The Board may require any person entitled to a share as a consequence of the death, disability, insolvency or bankruptcy of a shareholder to either register as the new shareholder or to transfer the share in order to receive money payable to the shareholder.

35.4. The Board may permit the Public Shares to be held in uncertificated form and transferred by electronic clearing system (approval may be rescinded at any time). The Board will implement the arrangements for the electronic clearing system and procedures for the issuance, holding, transfer, redemption and/or conversion of uncertificated Public Shares.

35.5. The Board may refuse to register transfers of Public Shares which are not fully paid or which are subject to the Company's lien and may refuse to register transfers of uncertificated Public Shares in accordance with the rules of their electronic clearing system or in the circumstances in the Guernsey Regulations.

35.6. The Board may suspend transfers of Public Shares for periods not exceeding 30 days in the aggregate in any one calendar year.

**36. Shareholder Meetings and Resolutions**

36.1. The Board will determine the date and location of any general meeting, whether to convene general meetings in addition to the annual general meeting and whether to postpone any convened general meeting.

36.2. The Board is required to convene a general meeting at the request of shareholders holding more than ten percent of voting rights eligible to vote at general meetings in accordance with Article 27.7.

36.3. The Chairman of the Board or a Director nominated by the Board will preside over general meetings.

36.4. The Board may decline to make the Company's shareholder list available for inspection at a general meeting.

36.5. For the purpose of calculating their shareholder voting rights, the Board will determine and notify shareholders in advance of meetings of the net asset value of the Public Shares and Management Shares as of the close of business on the valuation day prior to the record date for the meeting.

36.6. The Board will rule on the validity of any challenge to a voter's qualification to vote at a meeting.



36.7. The Board will specify the form and means of filing instruments appointing a proxy.

36.8. The Board may permit written resolutions of shareholders and will determine the means by which notice of such resolutions is to be delivered to shareholders.

**37. Operation of the Company**

37.1. The Board will take all steps reasonably necessary or advisable to maintain the Company's domicile in Guernsey.

37.2. The Board will determine:

37.2.1. the Company's fiscal year end;

37.2.2. the business days of the Company;

37.2.3. the days for the calculation of the Company's net asset value; and

37.2.4. the means of execution of negotiable instruments and receipts for monies paid to the Company.

37.3. The Board may delegate any of its powers to a committee on such terms and conditions as the Board determines. The composition, responsibilities and authority of the committees of the Board will be set forth in their terms of reference as approved by the Board.

37.4. The Board may approve expenses in connection with the business of the Company.

37.5. The Board may authorize persons to act as attorney-in-fact for the Company and may engage other agents and service providers, including administrators, custodians, investment advisers and prime brokers, on such terms and with such powers as it deems appropriate. Service providers will be reviewed annually by the Management Engagement Committee.

37.6. The Board may amend the Company's agreement with its investment manager, or may terminate it with the subsequent approval of 66 2/3% by voting power of the holders of the then outstanding voting shares of the Company and 66 2/3% by voting power of the holders of the then outstanding Public Shares. If the investment management agreement is terminated, the Board may appoint a Director to hold an executive office of the Company on terms and with the powers the Board deems appropriate.

37.7. The Board may agree to contractual indemnities on behalf of the Company in addition to the indemnification of Directors in the Articles and may purchase insurance for the benefit of the Directors.

37.8. The Board exercises the Company's power to borrow money, pledge the Company's property and issue debt securities. The Board may amend the Company's borrowing policy from time to time, although the Board may not increase or decrease the Company's maximum borrowing ratio without the prior consent of the investment manager.

37.9. The Board may create and make arrangements for subsidiaries of the Company, including

taking profits, bearing losses and providing financing and guarantees.

37.10. The Board will cause to be maintained a register of Directors.

37.11. The Board will oversee the delivery of notice to shareholders in the event of a Key Man Event (as defined in the Articles).

37.12. The Board may determine the basis for the distribution of the assets of the Company to shareholders upon the winding up of the Company.

37.13. The Board will resolve ambiguity in the application of the Articles

### **38. Conflicts of Interest**

38.1. Directors must disclose the nature and extent of their interest in a transaction or proposed transaction with the Company as soon as practicable after becoming aware of the interest.

38.2. Directors are restricted from voting on any arrangement in which they have a material interest (other than interest in securities of the Company). This restriction may be modified with the approval of the Board and an ordinary resolution of the voting shares of the Company.

38.3. Directors may hold offices in the Company on terms approved by the Board.

### **Other Matters**

39. The Board will have access to sufficient resources in order to carry out its duties, including access to the Company secretary for assistance as required.

40. The Board will be provided with appropriate and timely training, both in the form of an induction program for new members and on an ongoing basis for all members.

41. The Board will arrange for periodic reviews of its own performance and, at least annually, review its constitution and terms of reference in an effort to operate at maximum effectiveness.

### **Authority**

42. The Board is authorized to obtain, at the Company's expense, independent legal, accounting or other professional advice on any matter within its terms of reference when the Board reasonably believes it necessary to do so.

43. The Board may seek any information it requires from any director or service provider of the Company in order to perform its duties.