|  |  |
| --- | --- |
| Amended and Restated Limited Partnership Agreement | |
| constituting [Name of ECF] | |
|  | |
| Dated: |  |
| Among:  *[General Partner] (1)* | |
| *[Founder Partner] (2)*  *British Business Finance Ltd (3)* | |

Notes:

This is an example only, subject to further review and amendment by British Business Finance Ltd and subject to any bid and to any subsequent negotiation.

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This **AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT** has been executed and delivered as a deed on [**\*\*\***].

PARTIES

1. **[*GENERAL PARTNER*],** a [\*\*\*] (registered number [*Number*]) whose registered office is at [*Address*][[1]](#footnote-1) ("General Partner");
2. **[*FOUNDER PARTNER*],** (registered number [*Number*]) whose registered office is at [*Address*][[2]](#footnote-2) ("Founder Partner"); and
3. BRITISH BUSINESS FINANCE LTD, a private limited company incorporated in England (registered number 09091928) whose registered office is at Steel City House, West Street, Sheffield, S1 2GQ *(*"Preferred Partner"*).*

INTRODUCTION

1. The Partnership was constituted by an agreement entered into between the General Partner and the Founder Partner on [*Date*] (the "Initial Agreement") under the name “[*Name of ECF*] LP” to carry on the business of an investor and, in particular, of identifying, negotiating, making, monitoring and realising investments and to carry out all functions and acts in connection therewith.
2. The Partnership was registered on [\*\*\*] as a private fund limited partnership in [England] under the Act with registration number LP [*Number*].
3. Commitments in the Partnership are being sought from investors and the General Partner and the Founder Partner wish to amend and restate certain terms of the Initial Agreement to, *inter alia*, permit the admission of such investors as Limited Partners, including the Preferred Partner.
4. The Founder Partner will subscribe £[*Amount[[3]](#footnote-3)*] of partnership capital in the Partnership, as a founder limited partner. The Preferred Partner will make a Commitment to the Partnership in accordance with clause 2.11.
5. [*Name of Manager*] has been selected by the General Partner to act as the manager of the Partnership and has been appointed by the Partnership to admit Investors to the Partnership and thereafter to operate the Partnership and manage its Investments.
6. It is the intention of the parties that this Agreement be entered into as a deed.

OPERATIVE PROVISIONS

# Definitions and interpretation

* 1. In this Agreement (including the Introduction and the Schedules), unless the context otherwise requires, the following words and expressions have the meanings shown:

|  |  |
| --- | --- |
| “Abort Costs” | all costs and disbursements properly incurred by the Partnership, the Manager or the General Partner in connection with investment proposals which do not proceed to completion |
| “Abort Fees” | any fees or commissions of any description whatsoever received by the General Partner, the Manager, any of their Associates and/or the Partnership in connection with investment proposals which do not proceed to completion |
| “Accounting Date” | 31 [December] 20[  ] and 31 [December] in each year thereafter or (in the case of the final Accounting Period of the Partnership) the date when the Partnership is ultimately dissolved |
| “Accounting Period” | a period ending on and including an Accounting Date and beginning on the day following the immediately preceding Accounting Date or, in the case of the first Accounting Period, on the date of establishment of the Partnership |
| “Acquisition Cost” | the acquisition cost of an Investment together with any expenses related to such acquisition which are properly borne by the Partnership in accordance with the terms of this Agreement |
| the “Act” | the United Kingdom Limited Partnerships Act 1907, or such other statute or statutory provisions made or enacted after the date of this Agreement where such statute or statutory provisions directly or indirectly replace or amend such Act |
| “Advisory Committee” | a committee comprising representatives of certain investors in the Partnership as described in clause 17.14 |
| this “Agreement” | this limited partnership agreement, as amended or restated from time to time |
| “AIFMD” | Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No. 1095/2010, the Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision |
| 1. “Associate” | * 1. any corporation or undertaking which in relation to the person concerned is a holding company, a parent undertaking or a subsidiary undertaking, or a subsidiary undertaking of any such holding company or parent undertaking or any partnership which is a subsidiary undertaking of the person concerned or of any such holding company; |
|  | * 1. where the context so admits in respect of any individual, such person's spouse, a relative of such person or of such person's spouse, the spouse of such a relative, or any trust of which any such person is a settlor, and "relative" for these purposes means a brother, sister, ancestor or lineal descendant (including any adopted lineal descendant); |
|  | * 1. any investment fund, investment trust, venture capital trust or collective investment scheme managed or advised (either directly or as a director, officer or employee of any management or advisory company) by any of: the person concerned, the directors, officers, employees or shareholders of the person concerned (in the case of a company), or any person who would fall within parts (a) or (b) of the definition of Associate in respect of such person, or such directors, officers, employees or shareholders; and |
|  | * 1. in relation to the General Partner, each of the Manager, the Founder Partner and any Named Executive |
|  | provided however that a Portfolio Company shall not be deemed to be an Associate of the General Partner or the Manager by reason only of an Investment by the Partnership in such Portfolio Company and Partners shall not be deemed to be Associates of each other solely by virtue of being partners in the Partnership |
| “Associated Investors” | any Investor and any Associate of such Investor which is also an Investor, any Investors which are under common management, ownership or control and any Investors acting in concert within the meaning of the City Code on Takeovers and Mergers (excluding, for the avoidance of doubt, the Preferred Partner) |
| “Auditors” | [*Name of auditors*] or such other auditors as may be selected by the Manager pursuant to clause 17.24 |
| “Authorised Person” | a person who holds the necessary authorisation required in the United Kingdom permitting it to carry on the activities it is appointed to carry out on behalf of the Partnership, the General Partner or the Manager (as the case may be) |
| “Bidding Materials” | all documentation, information, records, analysis, projections, budgets, forecasts, references, statements and other materials provided by the Manager, any of its Associates or any of its or their officers or employees to the Preferred Partner prior to the date hereof |
| “Business Day” | a day (not being a Saturday or Sunday or a public holiday) on which banks are generally open for non-automated business in London |
| “Capital Contribution” | the amount contributed by each Limited Partner to the capital of the Partnership being: (a) in respect of the Founder Partner (in its capacity as founder partner, but not in respect of its Commitment) £[*amount[[4]](#footnote-4)*]; (b) in respect of the Preferred Partner £[*amount[[5]](#footnote-5)*]; and (c) in respect of each of the Investors (including the Founder Partner in respect of its Commitment) such proportion of £[*amount[[6]](#footnote-6)*] as is equal to the proportion to which it is entitled to distributions pursuant to clause 11.1(f) |
| “Capital Gain” | the amount (if any) by which the proceeds of disposal of an Investment (after deduction of expenses of the Partnership associated with the disposal and which are properly borne by the Partnership in accordance with the terms of this Agreement) exceed the Acquisition Cost thereof |
| “Capital Loss” | the amount (if any) by which the Acquisition Cost exceeds the proceeds of disposal of an Investment after deduction of expenses of the Partnership associated with the disposal |
| “Capital Proceeds” | amounts determined by the Manager to be in the nature of capital proceeds and available for distribution by the Partnership or (as the case may be) already distributed by the Partnership, including the Value of any assets of the Partnership distributed in specie |
| “Carried Interest Share” | [\*\*\*] per cent as amended pursuant to clauses 14.8 to 14.9 |
| “Cause Event” | the meaning given in clause 14.7 |
| “Closing” | the First Closing Date, the Final Closing Date and any other date on which Limited Partners are admitted to the Partnership or on which an existing Limited Partner increases its Commitment in accordance with clauses 3.1 and 3.2 |
| “Co-investment Payments” | any carried interest, performance fee or similar fee or payment received by the Manager or its Associates in relation to any co-investment made in accordance with clauses 17.3 and 17.4 |
| “Co-investment Opportunity” | the meaning given in clause 17.3 |
| “Commitment” | in relation to an Investor, the amount committed by it to the Partnership equal to the aggregate of the amount subscribed by it as an Investor as capital (the Capital Contribution) and the amount agreed to be advanced to the Partnership by it as an Investor as loan (the Loan Commitment) (and whether or not such amount has been advanced in whole or in part and whether or not it has been repaid to the Investor in whole or in part) and in relation to the Founder Partner the amount committed by it to the Partnership as capital |
| “Compulsory Adjustment” | the meaning given in clause 5.4 |
| “Conflicts Policy” | a conflicts policy which ensures that the Manager complies with its obligation to manage conflicts of interest fairly (in accordance with the rules set out in the Senior Management Arrangements, Systems and Controls sourcebook component of the FCA Rules from time to time) and accordance with any requirements set out in this Agreement |
| “CRS” | the OECD Standard for Automatic Exchange of Financial Account Information in Tax Matters – the Common Reporting Standard, and any associated guidance |
| “Data Protection Laws” | any law, code or regulation relating to the processing, privacy, and use of personal data, including, the following to the extent they are applicable: (a) the UK General Data Protection Regulation, as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of Section 3 of the European Union (Withdrawal) Act 2018; (b) the UK Data Protection Act 2018; (c) the EU General Data Protection Regulation 2016/679; and in each case as amended, replaced or updated from time to time by any judicial or administrative interpretation of such laws, directives or regulations and together with any subordinate or related legislation made under any of the foregoing |
| “Deed of Adherence” | the deed of adherence substantially in the form set out in Schedule 3 |
| “Default Amount” | the meaning given in clause 5.12 |
| “Defaulting Investor” | the meaning given in clause 5.14 |
| “Deposit Interest” | all interest earned on the Partnership's cash funds from time to time (including without limitation interest on sums held pursuant to clauses 5.9 and 11.10) |
| “Direct Acquisition Cost” | the acquisition cost of an Investment excluding any expenses related to such acquisition |
| “Drawdown Notice” | a notice given to the Investors by the Manager pursuant to clause 5.1 substantially in the form set out in Schedule 2 (or, in respect of the Preferred Partner, in such form as the Preferred Partner may specify from time to time) |
| “Equalisation Amount” | the meaning given in clause 3.3(a) |
| “Equalisation Interest” | the meaning given in clause 3.3(b) |
| “EUWA” | has the meaning given in clause 1.4 |
| “FATCA” | * + 1. sections 1471 to 1474 of the US Internal Revenue Code of 1986 and the Treasury regulations and official guidance issued thereunder, as amended from time to time ("**US FATCA**");     2. any inter-governmental agreement between the United States and any other jurisdiction entered into in connection with US FATCA (an "**IGA**");     3. any treaty, law, regulation, or official guidance enacted, issued or amended in any jurisdiction which facilitates the implementation of US FATCA or an IGA, and all administrative and judicial interpretations thereof ("**Implementing Law**"); and     4. any agreement entered into with the US Internal Revenue Service, the US government or any governmental or Taxation Authority in any other jurisdiction in connection with US FATCA, an IGA or any Implementing Law |
| “FCA” | the Financial Conduct Authority or any successor or replacement authority responsible for the authorisation or regulation of the business of the Manager |
| “FCA Rules” | the rules and glossary contained in the FCA Handbook of Rules and Guidance, as amended or replaced from time to time, subject to any waiver, modification or individual guidance from time to time applicable to the Manager |
| 1. “Final Closing Date” | the latest to occur of: |
|  | * 1. the date upon which the last Investor is admitted to the Partnership pursuant to clause 3; or |
|  | * 1. the last date on which an existing Investor increases the amount of its Commitment pursuant to clause 3; |
|  | provided that such date shall not be later than the expiry of six months from the First Closing Date (or, in exceptional circumstances, such later date being not more than twelve months after the First Closing Date determined by the Manager and approved by the Preferred Partner) and if neither (a) nor (b) occurs, the Final Closing Date shall be the First Closing Date, with any extension subject to the Preferred Partner's approval in writing |
| “First Closing Date” | the date of this Agreement |
| “First Drawdown Date” | in relation to each Investor, the date upon which the first drawdown of its Loan Commitment is made pursuant to clause 5.1 or, in the case of a Subsequent Investor, clause 3.3 |
| “Follow-On Investment” | investments in companies other than New Investments |
| “Formation Expenses” | the reasonable and proper costs and expenses incurred in the establishment of the Partnership including legal, accounts, tax and professional fees and expenses and the costs of documentation for the Partnership (but for the avoidance of doubt, this shall not include any fund-raising costs, marketing costs or placements fees in relation to the Partnership) |
| “Founder Partner” | [*the Founder Partner*] (or its successor from time to time) in respect of its Capital Contribution referred to in paragraph (D) of the Introduction as adjusted pursuant to clause 4.3 and only in respect of its aforesaid Capital Contribution and not in respect of any Commitment made as an Investor |
| “Fresh Capital” | the meaning given in paragraph 3.4 of Schedule 1 |
| “FSMA” | the Financial Services and Markets Act 2000 |
| “GBER” | the General Block Exemption Regulation of the European Commission (Regulation 651/2014 of 17 June 2014) declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union as amended by the Commission Regulation (EU) 2023/1315 of 23 June 2023. |
| “General Partner” | the GP or its successor for the time being as general partner of the Partnership |
| “General Partner's Share” | the amount referred to in clause 9.2 |
| “Income” | amounts determined by the Manager to be in the nature of income proceeds and available for distribution by the Partnership or (as the case may be) already distributed by the Partnership |
| “Indemnified Individual” | any officer, director, shareholder, agent, member, partner or employee of the General Partner, the Manager or any of their Associates or a Nominated Director |
| “Indemnified Person” | any of the General Partner, the Manager or any of their Associates and any Indemnified Individual |
| “Indirect Participant” | the meaning given in clause 11.5 |
| “Initial Agreement” | the meaning given in paragraph (A) of the Introduction |
| “Interest” | the interest of a Partner in the Partnership including its Share and its Commitment (if any) and all other rights which it has in the Partnership, including its rights to vote and inspect the books and records of the Partnership |
| “Investment(s)” | an investment or investments acquired by the Partnership (either directly or indirectly) including but not limited to shares, debentures, convertible loan stock, options, warrants or other securities and loans (whether secured or unsecured) made to any body corporate or other entity |
| 1. “Investment Period” | the period from the First Closing Date to the earlier of: |
|  | * 1. the [fifth][[7]](#footnote-7) anniversary of the First Closing Date; |
|  | * 1. the date when there are no Undrawn Loan Commitments and no further Undrawn Loan Commitments can arise; |
|  | * 1. the date determined pursuant to clause 5.27; |
|  | * 1. the date determined pursuant to clause 14.4; |
|  | * 1. the date the Manager may determine by giving notice to all of the Investors and where such date is approved by Investors' Consent |
| “Investment Policy” | the investment policy of the Partnership as set out in Schedule 1 |
| “Investment Related Fees” | all agency, directors' fees and benefits, monitoring fees and management fees received by the General Partner, Manager and/or any of their Associates directly in connection with the holding of an Investment by the Partnership |
| “Investor” | the Founder Partner (in respect of its Commitment) (but, in relation to the Founder Partner, not in respect of its separate Capital Contribution in its capacity as the founder partner), the Preferred Partner and any person who becomes a Limited Partner by signing a Deed of Adherence pursuant to clause 3 and any Substitute Investor who acquires rights and assumes obligations in succession to an Investor (for so long as such person or Substitute Investor remains a Limited Partner) |
| “Investors' Consent” | the written consent (which may consist of one or more documents each signed by one or more of the Investors) of both the Preferred Partner and of such of the Other Investors who hold Commitments which in aggregate equal or exceed fifty (50) per cent of Total Commitments other than the Preferred Partner's Commitment, excluding from such consent and from Total Commitments the Commitment (if any) of the General Partner, the Manager or any of their Associates and of any director, officer, member, shareholder or employee of the General Partner, the Manager and/or their respective Associates (and any entity controlled directly or indirectly by any such individual and/or his spouse or relative (as defined in paragraph (b) of the definition of "Associate")) |
| “Limited Partner” | the Founder Partner, the Preferred Partner and any person who is admitted to the Partnership as a limited partner by signing a Deed of Adherence and any Substitute Investor who acquires rights and assumes obligations in succession to an Investor (for so long as such person or Substitute Investor remains a limited partner) |
| “Loan Commitment” | in relation to an Investor, the loan agreed to be advanced by it to the Partnership pursuant to clause 5 (whether or not such loan has been advanced to the Partnership or repaid to the Investor, in whole or in part) being equal to such Investor's Commitment less its Capital Contribution |
| “LPAC Indemnified Person” | each person serving, or who has served, as a member of the Advisory Committee (and, with respect to losses arising out of or relating to such services only, the Limited Partner that such member, represents or has represented, as well as directors, officers and employees of such Limited Partner); |
| “Management Agreement” | the management agreement referred to in clause 6.8 as amended or substituted or restated from time to time |
| “Manager” | [*Name of manager*] or its successor for the time being as manager of the Partnership |
| “Named Executive” | each of [*Name of key person*] and [*Name of key person etc*] and any persons approved pursuant to clause 5.28 |
| “Net Income” | the amount greater than zero equal to the gross Income of the Partnership, being amounts (other than Capital Gains) determined by the Manager to be in the nature of income, less expenses of the Partnership (other than expenses included in the Acquisition Costs of Investments and expenses associated with the disposal of Investments), excluding any Deposit Interest |
| “Net Income Loss” | the amount determined where the calculation of Net Income produces an amount less than zero |
| “New Investments” | investments in companies in which, or in the Associates of which, the Partnership has not previously invested either directly or indirectly |
| “Nominated Director” | any person nominated by the Partnership or the Manager (or any Associate) to be a director (or equivalent) of any Portfolio Company |
| “Non-Profit or Public Investor” | any person who is, in the opinion of the Preferred Partner, a fund, corporate or other undertaking which: (a) is not investing with the intention of making a commercial return; or (b) does not otherwise have a commercial objective; or (c) is a public sector entity; or (d) receives significant funding from the UK Government and/or any one or more public sector entities |
| 1. “Ongoing Expenses” | the reasonable and proper administrative costs of the Partnership including: |
|  | * 1. the costs of printing and circulating reports and notices, including the costs of providing tax information to Investors; |
|  | * 1. auditors' fees and costs and expenses associated with the preparation and/or submission of the Partnership's tax returns; |
|  | * 1. bank charges and borrowing costs; |
|  | * 1. custodians', depositaries and valuers' fees and expenses; |
|  | * 1. costs and expenses of the Partnership in respect of complying with laws and regulations including any required authorisation and compliance with the AIFMD and/or the UK AIFMD (but not including, for the avoidance of doubt, the Managers' own internal costs including the costs of application to the FCA to be authorised as an AIFM and its required capital under the AIFMD and/or the UK AIFMD) and including compliance with any Tax Information Arrangement; and   2. stamp duties, |
|  | but excluding, for the avoidance of doubt, any expenses of the Manager in connection with the management of the Partnership |
| “Other Fees” | all fees (other than Transaction Fees, Investment Related Fees, Abort Fees or Co-investment Payments) received by the General Partner, the Manager and/or any of their Associates including arising out of the making of any Investment by the Partnership corporate finance fees, advisory fees, fees received in respect of placement, and fees relating to arrangement and origination of secondary transactions for sale of portfolio investments |
| "Other Investors" | the Investors other than the Preferred Partner |
| “Other Investor Marketing Materials” | written documentation provided to any Other Investor or potential Other Investor for the purposes of enabling that Other Investor or potential Other Investor to make a decision to invest in the Partnership |
| “Outstanding Loan” | in relation to an Investor, the amount of its Loan Commitment which, at the relevant time, has been drawn down and has not been repaid (or deemed to be repaid) in accordance with clauses 11.1, 11.12, 11.16 or 14 |
| “Partner” | the General Partner and/or any of the Limited Partners, as the context requires |
| “Partnership” | [*Name of ECF*] being the private fund limited partnership established by the Initial Agreement, the activities and operation of which shall be governed by the terms and conditions of this Agreement |
| “Partnership Assets” | all or any of the assets of the Partnership including, for the purposes of this Agreement, the amount of any Undrawn Loan Commitment |
| "Partnership Law" | the Act and any other relevant laws, rules or legislation which are binding from time to time pursuant to which, inter alia, issues of the constitution and validity of the Partnership are determined |
| “Partnership Opportunity” | the meaning given in clause 17.2 |
| “Portfolio Company” | any limited company or limited liability partnership in which the Partnership holds Investments |
| “Preferred Partner's Profit Share” | [\*\*\*] per cent[[8]](#footnote-8) |
| “Preferred Return” | such amount, determined at any Repayment Date, as is equal to interest at an annual rate of [\*\*\*] ([\*\*\*]) per cent (compounded annually) on the daily amount of the Outstanding Loans of the Other Investors (calculated on the basis of a 365-day year, and where the start date is the later of (i) the Relevant Drawdown date of the relevant Loan Commitment or (ii) the first anniversary of the First Closing Date, and the end date is the Repayment Date) |
| “Previous Investor” | the meaning given in clause 3.3 |
| “Private Investors” | the Investors other than the Preferred Partner [and any Non-Profit or Public Investors][[9]](#footnote-9) |
| “Prohibited Investments” | Investments which the Preferred Partner determines do not fall within the Investment Policy and / or the Portfolio Company disclosures at clause 6.22 |
| “Purchaser” | the meaning given in clause 5.16(b) |
| “Qualifying Round Size” | the meaning given in paragraph 2.1(a) of Schedule 1 |
| “Quotation” | the admission of an Investment or other vehicle to any Designated Investment Exchange or Recognised Investment Exchange, each as defined in the FCA Rules, the Alternative Investment Market of the London Stock Exchange, or the granting of permission for an Investment to be quoted or dealt in on a market or trading facility which in the opinion of the Manager is an appropriate stock exchange or market |
| “Recycling Period” | the period commencing on the First Closing Date and ending on [the expiry of the Investment Period] |
| “Relevant Drawdown” | the meaning given in clause 3.3 |
| “Repayment Date” | any date or time when the Outstanding Loans are repaid (or deemed to have been repaid) in full pursuant to clauses 11.1, 11.12, 11.16 or 14 and the Preferred Return (as determined on that date) is paid to Investors in accordance with clause 11.1 and no amount in respect thereof remains outstanding |
| “Replacement Capital” | the meaning given in paragraph 3.4 of Schedule 1 |
| “Reporting Template” | a reporting template in the form provided by the Preferred Partner (as updated from time to time) |
| “Requested Information” | the meaning given in clause 8.8 |
| “Retail Investor” | a Limited Partner that would be a retail client under the FCA Rules |
| “Retained Account” | the meaning given in clause 11.4 |
| “Risk Finance Investment(s)” | the meaning given in paragraph 1.5 of Annex 1 to Schedule 1 |
| 1. “Share” | in relation to a Partner, its financial share in the profits of the Partnership, comprising all or any part of such Partner's entitlement under this Agreement to: |
|  | * 1. its share of the profits, including Capital Gains and Net Income, of the Partnership and the right to repayment of Outstanding Loan (if any); and |
|  | * 1. its share of the Partnership Assets upon the dissolution of the Partnership and, for the purposes of ascertaining that share, to an account as from the date of the dissolution, |
|  | but excluding any entitlement to interfere in the management or administration of the Partnership's business or affairs, or to require any accounts of the Partnership's transactions, or to inspect the Partnership's books |
| “Side Letters” | the meaning given in clause ‎6.15 |
| “SME” | a micro, small or medium-sized enterprise as determined pursuant to the Companies Act 2006 |
| “SONIA” | the Sterling Overnight Index Average for 6-month Sterling deposits as quoted by the Bank of England from time to time during the period in question or, if the Bank of England database is not published or does not quote a rate, as quoted by a lending bank selected by the Manager (or, following any dis-continuation of SONIA, any replacement rate selected by the Manager) |
| “Sterling or £” | the official currency of England and Wales from time to time which is used as the reference accounting unit of the Partnership |
| “Subsequent Investor” | an Investor admitted after the First Closing Date pursuant to clause 3.1 or any Investor who increases their Commitment pursuant to clause 3.2 (provided however that in the latter case such Investor shall only be a Subsequent Investor in respect of their increased Commitment) |
| “Substitute Investor” | a person admitted pursuant to clause 12 as a Limited Partner as the successor to all, or part of, the rights and liabilities of an Investor in respect of such Investor's Interest |
| “Suspension Event” | the meaning given in clause 5.23 |
| “Taxation or Tax or Taxes” | any form of taxation together with interest or penalties (if any) thereon and any reasonable costs incurred in resisting claims therefor |
| “Taxation Authority” | a taxing or other governmental, state or municipal authority competent to impose, collect or administer a liability for Tax |
| “Tax Information Arrangement” | any governmental, inter-governmental or other arrangement between competent authorities or any similar arrangement for the cross-border exchange of Tax information applicable in any jurisdiction (or any treaty, law, regulation, or official guidance enacted, issued or amended in any jurisdiction which facilitates the implementation of such arrangement) including (without limitation) FATCA, CRS and any bilateral or multilateral Tax information agreement between any jurisdictions |
| “Tax Refund” | the meaning given in clause 11.5 |
| “Total Commitments” | the aggregate amount of all of the Commitments from time to time |
| 1. “Total Initial Investment” | the sum of: |
|  | * 1. the Direct Acquisition Cost of all Investments in a Portfolio Company and its Associates, acquired or agreed to be acquired by the Partnership at the time of, or in relation to, the acquisition of its first Investment into such Portfolio Company; and |
|  | * 1. the aggregate of all investments into such Portfolio Company and its Associates acquired, or known or believed by the Manager to have been agreed to be acquired, by any investor in such Portfolio Company or its Associates other than the Partnership (excluding any investor providing only debt finance with no actual or potential interest in the equity share capital) on or around the time of Partnership's first Investment into such Portfolio Company (and, for the avoidance of doubt, includes (i) all investments made in the same funding round, even if made as part of earlier or later tranches of such funding round; and (ii) any investments acquired under an advance subscription agreement or on conversion of convertible loan notes or by way of a similar transaction) |
| 1. “Total Subsequent Investment” | the sum of: |
|  | * 1. the Direct Acquisition Cost of all Investments in a Portfolio Company and its Associates, acquired or agreed to be acquired by the Partnership after the time of the acquisition of its first Investment into such Portfolio Company; and |
|  | * 1. the aggregate of all investments into such Portfolio Company and its Associates acquired, or known or believed by the Manager to have been agreed to be acquired, by any investor in such Portfolio Company or its Associates other than the Partnership (excluding any investor providing only debt finance with no actual or potential interest in the equity share capital) after the time of the Partnership's first Investment into such Portfolio Company |
| “Transaction Fees” | all arrangement fees, syndication fees and any other transaction fees received by the General Partner, the Manager and/or any of their Associates, agreed upon at the time of and directly referable to the making of an Investment |
| “Transfer” | the meaning given in clause 12.3 |
| “UK” | the United Kingdom of Great Britain and Northern Ireland (as at the First Closing Date); |
| 1. “UK AIFMD” | the UK legislation implementing the AIFMD in force from 1 January 2021, comprising namely:   * 1. the law of the UK or any part of it, which immediately before IP completion day (as defined in the European Union (Withdrawal Agreement) Act 2020) implemented AIFMD, and its implementing measures;   2. direct EU legislation (as defined in the European Union (Withdrawal Act) 2018 (the "**Withdrawal Act**")), which immediately before IP completion day (as defined in the European Union (Withdrawal Agreement) Act 2020) supplemented or implemented AIFMD as it forms part of domestic law of the UK by virtue of the Withdrawal Act; and   any guidance relating thereto issued by the European Securities and Markets Authority |
| “UK Credit Institution” | a person authorised by the Prudential Regulation Authority and regulated by the FCA and the Prudential Regulation Authority in relation to the acceptance of deposits in accordance with article 5 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 |
| “Undrawn Loan Commitment” | in relation to an Investor, the amount of its Loan Commitment which, at the relevant time, remains available for drawdown pursuant to clause 5 |
| “Unequalised Part” | the meaning given in clause ‎3.4 |
| “Value” | except where otherwise expressly stated shall mean, in relation to any Investment or Interest, such value as shall be determined by the Manager in its reasonable discretion in following the "**International Private Equity and Venture Capital Valuation Guidelines**" (dated December 2022 and as further amended or replaced from time to time) |
| “VAT” | UK Value Added Tax and/or any other value added tax or sales tax applicable in the UK or any other country |
| “Withheld Tax” | has the meaning given in clause 11.17 |
| “Withholding Tax” | has the meaning given in clause 11.17 |

* 1. The terms "subsidiary" and "holding company" bear the respective meanings attributed to them in section 1159 of the Companies Act 2006 (and "subsidiaries" shall also include any partnerships which are subsidiary undertakings of the person concerned), and "subsidiaries" and "holding companies" are to be construed accordingly and "group" shall mean in relation to a company all subsidiaries and holding companies of that company and all subsidiaries of its holding companies. The terms "parent undertaking", "subsidiary undertaking" and "undertaking" bear the respective meanings attributed to them in section 1162 of the Companies Act 2006, provided that in respect of the Preferred Partner only a corporation sole shall be deemed to be an "undertaking", and "parent undertakings", "subsidiary undertakings" and "undertakings" are to be construed accordingly.
  2. References to the parties, the Introduction, clauses and Schedules are respectively to the parties, the Introduction, the clauses and the Schedules of and to this Agreement.
  3. References to statutory provisions, enactments or EU Directives shall include references to any amendment, modification, extension, consolidation, replacement or re-enactment of any such provision, enactment or EU Directive (whether before or after the date of this Agreement) and to any regulation, directive, instrument or order, technical standards or guidance or other subordinate legislation made under or implementing such provision, enactment or EU Directive, including any local legislation implementing any EU Directive. In relation to the UK, references to European Union legislation shall mean European Union legislation which has been retained in UK law under the European Union (Withdrawal) Act 2018 and related legislation and rules (the "**EUWA**") subject to any amendments to that European Union legislation under the EUWA and which is in force in the UK at the relevant time.
  4. References to any English legal term or legal concept shall in respect of any jurisdiction other than England be deemed to include that which most approximates in that jurisdiction to such English legal term or legal concept.
  5. References to times of the day are to that time in London and references to a day are to a period of 24 hours running from midnight.
  6. Unless the contrary intention appears:
     1. words importing one gender shall include all genders;
     2. words in the singular include the plural and words in the plural include the singular;
     3. all references to an enactment include an enactment comprised in subordinate legislation whenever made;
     4. references to persons shall include bodies corporate, unincorporated associations and partnerships, in each case whether or not having a separate legal personality; and
     5. references to the word "include" or "including" (or any similar term) are not to be construed as implying any limitation and general words introduced by the word "other" (or any similar term) 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.
  7. The term "Agreed", where used in respect of an investment in a Portfolio Company or any of its Associates shall include, without limitation, any form of agreement, undertaking or offer to invest in, subscribe for or otherwise acquire shares or other securities, whether written, oral, electronic or otherwise, formal or informal, conditional or unconditional and whether or not legally binding.

# Nature and Purpose

Nature

* 1. The Partnership is a private fund limited partnership and has been registered pursuant to the Act. The General Partner shall, or shall procure that the Manager shall, do all things and discharge all duties or requirements of or imposed on a general partner by the Act (whether or not on behalf of the Partnership) and where the Manager or General Partner is to do so on behalf of the Partnership it is hereby expressly authorised to do so accordingly. Any change which may occur in the particulars to be furnished under the Act which the Manager becomes aware of shall forthwith be notified by the Manager or the General Partner to the appropriate Registrar of Companies in a statement specifying the date and nature of such change.

Purpose

* 1. The purpose of the Partnership is to carry on the business of an investor as an "enterprise capital fund" and in particular but without limitation to identify, research, negotiate, make and monitor the progress of and sell, realise, exchange or distribute investments which shall include but shall not be limited to the purchase, subscription, acquisition, sale and disposal of shares, debentures, convertible loan stock and other securities in unquoted companies and the making of loans whether secured or unsecured to such companies in connection with equity or equity related investments, provided that all such Investments shall fall within the Investment Policy, with the principal objective of providing Partners with a high overall rate of return.
  2. The Manager shall ensure that all Investments fall within the Investment Policy. Material or repeated breach of the Investment Policy may result in the removal of the General Partner for a Cause Event pursuant to clause 14.7 or a Suspension Event pursuant to clause 5.23.

Name

* 1. The business of the Partnership shall be carried on under the name of "[*Name of ECF*]" or such other name as is determined by the Manager. At no time shall the name of the Partnership contain any reference to "British Business Bank", British Business Finance Ltd, HM Government or any governmental body or any reference which could be construed as suggesting any form of endorsement by the British Business Bank plc, its Associates, HM Government or any governmental body. The name may, however, include the phrase "Enterprise Capital Fund" or the acronym "ECF".

Principal place of business

* 1. The principal place of business of the Partnership shall be at [*Address*] or, subject to the Act, such other place in the UK as the Manager may from time to time determine.[[10]](#footnote-10)

Commencement and duration

* 1. The Limited Partners other than the General Partner and the Founder Partner shall be partners in the Partnership as from the date of this Agreement or, if later, the date of their admission to the Partnership. The General Partner and the Founder Partner have been partners in the Partnership since its establishment and registration as set out in paragraphs (A) and (B) of the Introduction.
  2. Each of the Investors, other than the Preferred Partner, makes and gives the statements, declarations, representations and warranties set out in paragraphs [\*\*\*][[11]](#footnote-11) of the Deed of Adherence to the other Partners on the date of their admission to the Partnership, save as previously disclosed in writing to the Manager and the Preferred Partner. Notwithstanding the foregoing and other than as previously agreed in writing with the Preferred Partner, no Investor shall be a Non-Profit or Public Investor.
  3. The General Partner and Founder Partner each hereby represent, warrant and confirm to the Preferred Partner that:
     1. the contents of the Bidding Materials are true, accurate and not misleading at the date hereof and have been prepared with appropriate care, skill and diligence; and
     2. the Preferred Partner has been provided with all Other Investor Marketing Materials and that the contents of the Other Investor Marketing Materials are true, accurate and not misleading and have been prepared with appropriate care, skill and diligence.

**[A separate such representation will be required from the Manager in the Side Letter given to BBFL.]**

* 1. Subject to the provisions of clause 14.3 hereof, the Partnership shall continue until the expiry of ten years from the First Closing Date, provided, however, that the term of the Partnership may be extended for up to two (2) additional one-year periods with the agreement of the General Partner and the Investors by an Investors' Consent (each year being subject to approval).

Currency

* 1. All advances by and distributions to Partners, all calculations pursuant to the terms of this Agreement and all accounts of the Partners or the Partnership shall be made or prepared (as the case may be) in Sterling (or such other currency as shall be the legal currency of the UK from time to time).

Commitments

* 1. The Preferred Partner hereby makes a Commitment of the lesser of: (a) £[*Amount*]; and (b) 66.6 per cent of Total Commitments to the Partnership as an Investor on the terms set out in this Agreement that are applicable to the Preferred Partner, provided that the Preferred Partner's Commitment shall not exceed at any Closing more than 66.6 per cent of the Total Commitments in the Partnership.
  2. Notwithstanding any other provision of this Agreement:
     1. the Total Commitments to the Partnership shall not exceed £[*Amount*];
     2. at the First Closing Date: (i) the Total Commitments shall not be less than £[*Amount*]; and (ii) the minimum amount of Total Commitments, excluding the Commitment from the Preferred Partner, shall not be less than £[*Amount*]; and
     3. the aggregate Commitments of the Preferred Partner [and any Non-Profit or Public Investors][[12]](#footnote-12) shall not at any time exceed 66.6 per cent of Total Commitments,

in each case, other than with the prior approval of the Preferred Partner.

* 1. The Founder Partner hereby makes a Commitment of £[*Amount*] to the Partnership as an Investor.

Liability of Partners

* 1. The Limited Partners shall have no personal obligation for the debts or liabilities of the Partnership, except as provided in this Deed, the Act or any other applicable laws. Nothing in this clause affects the provisions of clauses 5 and 11 and accordingly a Limited Partner may be required to advance funds to the Partnership pursuant to its Loan Commitment and may not be repaid its Outstanding Loan, notwithstanding the limitation of liability contained in this clause.
  2. The General Partner shall, on an unlimited basis, be liable for such of the Partnership's debts, liabilities and obligations as exceed the total liabilities of the Limited Partners as specified in clause 2.14. The General Partner shall not be personally liable to any Partner for the return of any Loan Commitments made to the Partnership.

# Admission of Further Limited Partners

Further Limited Partners

* 1. Subject to clause 3.6, and provided that they are not Non-Profit or Public Investors, the Manager shall be entitled to admit further persons as Limited Partners at one or more closings on or prior to the Final Closing Date. Each such person applying to be admitted shall complete, sign and deliver to the Manager a Deed of Adherence in respect of the Commitment being applied for. The Manager may accept or reject any application in whole or in part at its discretion. Upon acceptance of its Deed of Adherence (in whole or in part) by the Manager and satisfaction of any other conditions under Partnership Law, such person shall become a party to this Agreement (as a Limited Partner and an Investor, and shall be a Subsequent Investor) and be admitted to the Partnership with the Commitment accepted by the Manager. The Manager shall, in relation to each such Investor, comply with all "know your customer", anti-money laundering and related laws and regulations, counter-terrorist financing requirements, any applicable Tax reporting requirements, the FCA Rules and all other rules and regulations applicable to the Manager.

Increase in Commitment of existing Investor

* 1. Subject to clause 3.6, the Manager shall be entitled to permit existing Investors to increase the amount of their Commitments at one or more closings on or prior to the Final Closing Date. Each such person applying to be admitted shall complete, sign and deliver to the Manager a Deed of Adherence (or other document satisfactory to the Manager) reflecting such increase of Commitment. The Manager may accept or reject any application in whole or in part at its discretion. Upon acceptance of its Deed of Adherence (in whole or in part), any such Investor shall be treated as though it was Subsequent Investor in respect of the increased amount of its Commitments for the purposes of this clause 3 and for all other purposes of this Agreement.

Equalisation

* 1. This clause 3.3 shall apply to a Subsequent Investor who is admitted to the Partnership after the First Closing Date pursuant to the provisions of clause 3.1 or who has increased their Commitment pursuant to clause 3.2, and where Loan Commitments have been drawn down (the "Relevant Drawdown") from existing Investors ("Previous Investors") on or after the First Closing Date but prior to the First Drawdown Date of the Subsequent Investor (otherwise than in respect of Commitments drawn down to meet any General Partner's Share and the provisions of clause 3.4 shall apply in respect of such drawdown). Such Subsequent Investor shall pay to the Partnership on its First Drawdown Date, an amount equal to (in addition to the Capital Contribution required under clause 4.2 and 4.3):
     1. the amount notified to such Subsequent Investor by the Manager as being necessary to equalise (in percentage terms) the net amount drawn down from all Investors (excluding any drawdowns in respect of the General Partner's Share, but for the avoidance of doubt including its share of Formation Expenses) after taking into account any amounts (other than any amounts equal to Equalisation Interest) distributed to Previous Investors as set out in this clause 3 ("Equalisation Amount"); and
     2. an additional amount calculated thereon during the period commencing on the date of the first Relevant Drawdown and ending on the First Drawdown Date of such Subsequent Investor equal to interest at the rate of SONIA plus two (2) per cent per annum for the period from the date when such amount (or the relevant portion thereof) would have been drawn down had such Subsequent Investor been an Investor since the First Closing Date to the date of its admission ("Equalisation Interest").

The Equalisation Amount and Equalisation Interest shall be distributed to Previous Investors pro rata to their respective Outstanding Loans as soon as is practicable after receipt from Subsequent Investors. The Equalisation Amount so distributed will be in partial repayment of the Outstanding Loans of the Previous Investors and will increase their Undrawn Loan Commitments (so that immediately thereafter the amounts of all Investors' Undrawn Loan Commitments will bear the same proportion to their respective Loan Commitments) and thereby be available for drawdown again.

Equalisation of General Partner's Share

* 1. The Subsequent Investor shall also contribute to the Partnership an amount equal to the General Partner's Share on its Commitment from the First Closing Date to the First Drawdown Date of the Subsequent Investor, together with an additional amount equal to interest at the rate of SONIA plus two (2) per cent per annum for the period from the date when such amount (or the relevant portion thereof) would have been drawn down had such Subsequent Investor been an Investor since the First Closing Date to the date of its admission and such amount (including such amount equal to interest) will be distributed to the General Partner. Notwithstanding the foregoing, the Preferred Partner will not be required to contribute any amounts calculated pursuant to this clause **‎**3.4 to the Partnership and, for the purposes of this Agreement, the amount equal to the General Partner's Share on the Preferred Partner's Commitment from the First Closing Date to the First Drawdown Date (but not, for the avoidance of doubt, any additional amount equal to interest at a rate of SONIA plus two (2) per cent per annum for the period from the date when such amount would have been drawn down), which would have been contributable by the Preferred Partner pursuant to this clause ‎3.4 but for this provision, shall be the "**Unequalised Part**".

Treatment of additional amounts

* 1. Where Equalisation Interest or any interest is payable by a Subsequent Investor pursuant to clause 3.4, such amounts shall be payable in addition to the Commitment of such Subsequent Investor, shall not be reflected in the capital account or loan account of such Subsequent Investor and shall not be treated as a distribution for any purposes of this Agreement.

Associated Investors

* 1. Notwithstanding clauses 3.1, 3.2 and 12.3 and subject to clause 13.4, the Commitment of any single Investor (other than the Preferred Partner) or the aggregate Commitments of any Associated Investors shall not at any time, without the prior written consent of the Preferred Partner, equal or exceed fifty (50) per cent of Total Commitments excluding the Commitment of the Preferred Partner, unless the General Partner and the Manager are wholly independent from all such Associated Investors. The General Partner and the Manager shall not be considered wholly independent if any Associated Investor, or person who would be an Associated Investor with such persons were they to become an Investor themselves, holds, directly or indirectly, shares, options or warrants in respect of the General Partner, the Manager or any of their Associates, or holds the office of, or has the right to appoint a, director of the General Partner, the Manager or any of their Associates. Any admission of an Investor or increase in the Commitment of an Investor in contravention of this clause 3.6 shall be void.

Reputational issues

* 1. In deciding whether or not to admit any prospective Limited Partner to the Partnership, the Manager shall have regard to the reputation of such person and whether the admission of such person could be detrimental to the reputation of the Preferred Partner and will not admit any such person to the Partnership unless, in its reasonable opinion, no such detriment would occur.

Restriction on admission of Limited Partners

* 1. Notwithstanding the provisions of clauses 2 and 3, no Limited Partner or Subsequent Investor shall be admitted to the Partnership, and no Limited Partner shall be permitted to increase its Commitment, if such admission or increase would violate, or cause the Partnership to violate, any applicable law or regulation.

***Notification of Closings to the Preferred Partner***

* 1. The General Partner and the Manager will provide written notice to the Preferred Partner promptly following each Closing, such notice to include a list including the names, contact details and Commitments of each Limited Partner admitted (or who increase their Commitment) at such Closing. Each Limited Partner agrees to the foregoing disclosure.

# Capital Contributions

The Founder Partner

* 1. The Founder Partner has contributed or agreed to contribute the amount of capital to the Partnership as stated in paragraph (D) of the Introduction.

Investors

* 1. Each Investor shall contribute the amount of its Capital Contribution on its admission as a Limited Partner.
  2. On the Final Closing Date, the Investors shall each be required to increase or shall be repaid part of their Capital Contributions so that from and after the Final Closing Date, the Capital Contribution of the Preferred Partner shall equal the proportion of the Founder Partner's Capital Contribution which the Preferred Partner's Profit Share bears to the Carried Interest Share and the aggregate amount of the Capital Contributions subscribed by each of the Other Investors equals the proportion of the total Capital Contributions subscribed to the Partnership at the Final Closing Date equal to their aggregate proportionate entitlements to distributions pursuant to clause 11.1(g) and as between such Other Investors shall be pro rata to their Commitments.
  3. The General Partner (or one of its Associates) may, on behalf of the relevant Investor, contribute the amount of such Investor’s Capital Contribution to the Partnership and such amount shall be deemed to be an interest-free loan from the General Partner (or Associate, as the case may be) to the Investor which shall be immediately repayable by the Investor upon demand by the General Partner (or Associate as the case may be). Unless repaid earlier, the Manager shall be entitled to require the relevant Investor to repay the amount which is owing at the same time as the first drawdown is made from such Investor.

Interest

* 1. No interest shall be paid or payable by the Partnership upon any Capital Contribution or upon any amount whether of Net Income or Capital Gain allocated to any Partner but not yet distributed to it.

Repayment

* 1. Subject as provided in clauses 4.1 and 5.12, Capital Contributions shall only be repaid on the termination or liquidation of the Partnership.

# Loan Commitments

Investors

* 1. Each Investor:
     1. shall be required to advance interest free loans to the Partnership up to an aggregate amount equal to its Loan Commitment; and
     2. may be required to re-advance (subject as provided in this clause), as an increase to or to create an Outstanding Loan, that part of any amount distributed to it pursuant to this Agreement where and only to the extent that such distribution is or is attributable to:
        1. the repayment of sums drawn down from such Investor for a proposed Investment which does not proceed to completion (and the Manager is hereby authorised to repay such sums); or
        2. any amount distributed to such Investor pursuant to this Agreement, which is attributable to Capital Proceeds from an Investment realised within the Recycling Period up to the amount of such Investor’s share of the Acquisition Cost;
        3. payments to such Investor as a Previous Investors which are added to its Undrawn Loan Commitments pursuant to clause 3; or
        4. amounts of Net Income or Capital Gains which are allocated to the General Partner in satisfaction of loans (including drawings) made to the General Partner in respect of the General Partner's Share pursuant to clause 9.4 when such loans have been funded by one or more drawdowns of Loan Commitments from that Investor,
        5. the proceeds of deposits or short-term negotiable instruments made or acquired pursuant to clause 6.7(p) attributable to the Investor pending the application of monies drawn down pursuant to this Agreement in making Investments, meeting liabilities of the Partnership or paying the General Partner's Share,

and that part of any such distribution shall:

* + - * 1. to the extent of such Investor's Outstanding Loan, be in repayment of such Outstanding Loan; and
        2. increase such Investor's Undrawn Loan Commitment so that any such amount re-advanced shall be and shall be treated as part of the Outstanding Loan for all purposes of this Agreement,

but so that such Investor's Outstanding Loan shall not at any time exceed the amount of its Loan Commitment and provided that, at no point in time, shall the aggregate Acquisition Costs of Investments, howsoever acquired, exceed an amount equal to one hundred (100) per cent of the Total Commitments.

Loan Commitments shall be advanced in such tranches and on such dates as shall be determined by the Manager and specified in a Drawdown Notice given by the Manager to the Investors not less than 10 Business Days prior to the date so specified. Each Drawdown Notice shall contain summary details of any proposed Investment to which it relates (if any), including the nature of the business carried on by the proposed Portfolio Company and confirmation by the Manager that the proposed Investment falls within the Investment Policy, if applicable, providing reasons for such conclusion.

* 1. The Manager (save as provided in clause 3 and clause 5.4) shall draw down Loan Commitments from Investors pro rata to their respective Loan Commitments (disregarding the Loan Commitment of any Investor whose Capital Contribution has been forfeited pursuant to clause 5.15).
  2. Notwithstanding any provisions to the contrary, any amounts that would, if returned, be subject to re-contribution under clause 5.1(b) and which the General Partner considers are reasonably likely to be required to be re-contributed during such period, may, at the absolute discretion of the General Partner, be retained for a period not exceeding 60 days from the date such proceeds were received by the Partnership and invested in short-term negotiable instruments. Such proceeds may, during such period, be applied for any purpose for which Commitments would otherwise have been drawn down (provided that the General Partner shall nevertheless issue a Drawdown Notice to the relevant Investor with respect to such amount) and, if not so used, shall be distributed promptly following the expiry of such period.
  3. Notwithstanding any other provision of this Agreement, where the Commitment of[:
     1. ]the Preferred Partner at any time exceeds 66.6 per cent of Total Commitments[; or
     2. the Preferred Partner and any other Non-Profit or Public Investors, in aggregate, at any time exceed 66.6 per cent of Total Commitments,]

(whether following default, the death or insolvency of any Investor, or otherwise), subsequent drawdowns will not be made on pro rata basis as provided under clause 5.2, but shall instead be made on an adjusted basis (but pro rata between [(i)] Other Investors [in the case of clause 5.4(a)][, or (ii) Private Investors (in the case of clause 5.4(b))] such that the overall percentage holding of the Preferred Partner [(in the case of clause 5.4(a))] [or the Preferred Partner and the Non-Profit or Public Investors (in the case of clause 5.4(b))] in the Partnership shall be reduced to satisfy the aforementioned thresholds without undue delay (the "**Compulsory Adjustment**").[[13]](#footnote-13)

Post-Investment Period and Follow-On Investments

* 1. Undrawn Loan Commitments (if any) may be drawn down after the end of the Investment Period only for following purposes:
     1. paying the expenses and liabilities of the Partnership, including the General Partner's Share (or advances in respect thereof) and any expenses or liabilities in respect of indemnification obligations (whether pursuant to clause 16.2 or otherwise);
     2. making Follow-On Investments pursuant to clause 5.6 below; and
     3. completing legally binding contracts, where the contract was entered into before the expiry of the Investment Period.
  2. Notwithstanding the foregoing and, for the avoidance of doubt, during or after the Investment Period, the aggregate amounts drawn down for the purpose of making Follow-On Investments shall not exceed **[to be specified in bid (i.e. % Reserved for Follow-on)]** per cent of the Total Commitments, without the prior approval of the Investors by an Investors' Consent.
  3. The Manager may, by giving prior written notice to the Investors at any time after the Investment Period has ended, determine that part or all of the Investors' Undrawn Loan Commitments shall be cancelled pro rata. Any amount of Undrawn Loan Commitment so cancelled shall not be available for drawdown. Total Commitments and each Limited Partner's Commitment for the purposes of clauses 9.2, 11.1 and 17.1 shall be deemed to be reduced by the amount of any such cancelled Undrawn Loan Commitment.
  4. The Manager intends that the Partnership shall acquire Investments with an aggregate Acquisition Cost of at least £**[to be specified in bid]** per annum during the Investment Period, although, for the avoidance of doubt, neither the Manager nor the Partnership shall be required to do so. If the Partnership has acquired Investments in fewer than **[to be specified in bid]** Portfolio Companies, or has acquired Investments with an aggregate Acquisition Cost of less than £**[to be specified in bid]** by the third anniversary of the First Closing Date, the Investors, by an Investors' Consent, may elect to reduce the General Partner's Share by **[to be specified in bid]**.
  5. Any sums advanced by Investors shall be placed in an account with a UK Credit Institution or, with the consent of the Preferred Partner, another financial institution until used by the Partnership or returned to Investors.

Other Partners

* 1. The General Partner and the Founder Partner shall not be required to advance any Loan Commitment to the Partnership, save in the Founder Partner's separate capacity as an Investor.

Interest

* 1. The Outstanding Loans will not carry any interest.

Failure to comply with Drawdown Notice

* 1. Notwithstanding any provision of this Agreement to the contrary but subject to clause 12.5, if any Investor fails to advance to the Partnership the full amount which is the subject of a Drawdown Notice on or before the date of expiry of such Drawdown Notice (such shortfall being the "**Default Amount**"), then the Manager shall, as soon as reasonably practicable thereafter, give notice to such Investor requiring it to remedy such default and to pay interest to the Partnership on the amount outstanding for the period from the date of expiry of the Drawdown Notice up to the date of payment (or, if earlier, the date on which the Interest of the Defaulting Investor is forfeited or transferred under clauses 5.15 or 5.16) thereof at the rate of SONIA plus four (4) per cent or such higher rate (calculated on a daily basis and compounded annually) as in the General Partner's reasonable opinion is required to enable the Partnership to meet its costs arising from and/or associated with such default.
  2. Any interest paid under clause 5.12 shall be: (a) in addition to the Defaulting Investor's Commitment, shall not reduce the Undrawn Loan Commitment of the Defaulting Investor and shall not be reflected in any Partner accounts; and (b) paid to the Partnership for the account of the non-Defaulting Investors pro rata to their Commitments.
  3. If the Investor has not remedied such default by paying the full amount of the Default Amount and any accrued interest at the expiry of 30 days from the date of such notice, the Manager shall, unless each of the Investors (other than the potential Defaulting Investor) otherwise agree, deem such Investor to be a "**Defaulting Investor**". The Manager shall, without prejudice to any other rights it or the Partnership may have (and so that interest as set out above shall continue to accrue after such period of 30 days), as soon as reasonably practicable after the expiry of such period of 30 days either: (a) forfeit the Interest of the Defaulting Investor in accordance with clause 5.15; or (b) sell, acting as agent for the Defaulting Investor, all or part of the Interest of the Defaulting Investor in accordance with the provisions of clause 5.16.
  4. If the General Partner exercises its right to forfeit the Interest of a Defaulting Investor under clause 5.14:
     1. The General Partner shall cause the Capital Contribution of the Defaulting Investor to be returned by the Partnership to the Defaulting Investor, the Outstanding Loan of the Defaulting Investor to be forfeited and the Defaulting Investor to be expelled from the Partnership, at which point:
        1. the Defaulting Investor shall cease to be a Limited Partner, shall surrender its Interest and shall cease to have any rights against any other Limited Partner or under this Agreement, other than as set out in clause 5.15(b); and
        2. the Total Commitments shall be reduced by the amount of the Defaulting Investor's Commitment, provided that the General Partner shall not be deemed to have breached any restriction or limitation contained in this Agreement which is calculated by reference to Total Commitments, solely because of that reduction.
     2. The rights of the Defaulting Investor following forfeiture shall be limited to the right to receive an amount equal to the lowest of:
        1. its Outstanding Loan as at the date of forfeiture; and
        2. the Value of such Defaulting Investor's Interest at the date of forfeiture,

less in each case:

* + - 1. all costs and expenses incurred by the Partnership, the General Partner, the Manager or any of their respective Associates in connection with the Defaulting Investor’s default and the enforcement of this Agreement and any other rights any of them may have against the Defaulting Investor (including legal fees and expenses together with any Tax thereon);
      2. the amount of General Partner’s Share attributable to the Defaulting Investor that the General Partner would have received had the Defaulting Investor not become a Defaulting Investor, calculated from and including the date specified in the Drawdown Notice in respect of which the default occurred until the date on which the winding up of the Partnership is completed, which amounts shall be paid to the General Partner by the Partnership as General Partner’s Share; and
      3. an additional amount, if any, determined by the General Partner, after consultation with the Auditors, as being necessary to compensate the other Partners in relation to any additional Tax or other liability suffered by them as a consequence of the Defaulting Investor’s default;

and such amount shall only be payable during the winding-up of the Partnership under clause 14 if the Other Investors have received full payment of the amounts due under clauses 11.1(b), 11.1(c) and 11.1(d) at the time of such distribution, at which point the foregoing amount shall be paid to the Defaulting Investor(s) to the extent of the proceeds then available for distribution. If at that time there are insufficient Partnership Assets available to pay the foregoing amount, the Defaulting Investor shall have no further rights in respect of the shortfall. The obligation to pay this amount is an obligation of the Partnership and no Partner shall be personally liable for its payment, in full or in part.

* + 1. Following the forfeiture of a Defaulting Investor’s Interest: (i) the General Partner shall cause such adjustments to be made to the books and accounts of the Partnership and between the Investors as it shall consider necessary in the circumstances so that each Investor shall share in such forfeiture in proportion to its Commitment; and (ii) the Founder Partner shall be repaid part of its Capital Contribution so that the amount of its Capital Contribution as a Founder Partner shall continue to equal the Carried Interest Share of the total Capital Contributions subscribed in the Partnership immediately following such forfeiture.
  1. If the General Partner exercises its right to sell all or part of the Interest of a Defaulting Investor under clause 5.14, then:
     1. The Manager may offer the whole or part of the Interest of the Defaulting Investor to such person or persons as the Manager shall determine, provided that the Manager shall first offer existing non-Defaulting Investors in the Partnership 30 days in which to acquire the Defaulting Investor's Interest (and pro rata between them in the case of competition) before the Manager, any of its Associates or any third party may acquire such Interest (each a "**Purchaser**"), for such price(s) as agreed between the Manager and such party or parties (which shall be under no obligation to gain the best price for the Interest or part thereof, but shall seek to gain what it considers to be an appropriate price in the circumstances), provided that no such third party, the Manager nor any of its Associates shall acquire such Interest for a price lower than the highest price agreed with or offered by agreed non-Defaulting Investors pursuant to this clause 5.16. For the purpose of this clause, the Manager may determine that the purchase price may be paid immediately by the Purchaser, or by the issue to the Defaulting Investor of non-recourse promissory notes or similar pursuant to which the Defaulting Investor shall be entitled to receive amounts up to such price when and to the extent that the Purchaser receives distributions from the Partnership. The Purchaser shall, on completion of the transfer, be treated as a Substitute Investor. The following provisions shall also apply to such transfer:
        1. in the absence of fraud on their part, none of the Manager, the General Partner, or any of the Limited Partners shall be liable to a Defaulting Investor whose Interest is being transferred, or to a Limited Partner purchasing an Interest pursuant to this clause;
        2. the Manager shall be constituted the agent for the sale of the Defaulting Investor's Interest and each of the Limited Partners hereby irrevocably appoints each of the Manager and General Partner as their true and lawful attorney to execute any documents required in connection with such transfer if they shall become a Defaulting Investor and each such Limited Partner undertakes to ratify whatever the Manager or General Partner shall lawfully do pursuant to such power of attorney and to keep the Manager or General Partner indemnified against any claims, costs and expenses which the Manager or General Partner may suffer as a result thereof;
        3. the receipt by the Manager, General Partner, or Partnership of the sale proceeds shall constitute a good and valid discharge to the Purchaser of the Defaulting Investor's Interest;
        4. the Manager and General Partner shall not be required to pay the purchase money to the Defaulting Investor until the Defaulting Investor has delivered to them any and all documents of title as may be required by the Manager in respect of its Interest and/or for Tax reporting purposes, and confirmation that the Defaulting Investor has no claims against the Manager, General Partner, Partnership or Purchaser, and
        5. payment of the purchase price shall be subject to deduction of: (1) all costs and expenses incurred by the Partnership, the General Partner, the Manager or any of their respective Associates in connection with the Defaulting Investor’s default and the enforcement of this Agreement and any other rights any of them may have against the Defaulting Investor (including interest, legal fees and expenses together with any Tax thereon); and (2) such amount as the Manager may consider necessary to compensate the other Partners in respect of any additional tax or other liability or expense that they may suffer in connection with the default of such Defaulting Investor or with the sale of such Defaulting Investor's Interest.
     2. If the transfer is not completed within 90 days of the due date specified in the original Drawdown Notice, the interest of the Defaulting Investor shall be forfeited without any further action pursuant to clause 5.15 above. Pending the forfeiture or transfer of the Defaulting Investor's Interest pursuant to sub-clauses 5.15 or 5.16 above, the Manager shall be entitled to suspend indefinitely the right of such Defaulting Investor to receive any distributions from the Partnership. The Manager shall also take any action as the Manager may think reasonably necessary to enforce the obligations of the Defaulting Investor to make payment of any sums required pursuant to its Commitment.
  2. A Defaulting Investor shall not be entitled to receive notice of or vote at any meeting of the Partnership or participate in any Investors' Consent, and their Commitment shall not be included as part of Total Commitments for these purposes.
  3. Each Defaulting Investor shall indemnify the General Partner and the Partnership for any additional costs and expenses incurred, and for any reduction in the General Partner's Share which will result from, any such default.
  4. If Investors representing more than twenty-five (25) per cent of Total Commitments (excluding the Commitment of the Preferred Partner) have become Defaulting Investors, the Investors may, by an Investors' Consent, elect to either:
     1. suspend the ability of the Partnership to make New Investments as if a Suspension Event had occurred pursuant to clause 5.23; or
     2. terminate the Partnership or the Investment Period.
  5. Where the forfeiture of a Defaulting Investor under clause 5.15 result in the Preferred Partner’s Commitment exceeding the percentage of Total Commitments set out in clause 5.4, the Manager shall implement a Compulsory Adjustment as described in that clause, subject to clause 5.23(e).

Repayment of the Outstanding Loans

* 1. The Outstanding Loans shall be repaid in accordance with the terms of clause 11 subject to the provisions of clauses 14.14 and 14.15. Each of the Investors shall be a creditor in respect of the Outstanding Loan advanced by it on and subject to the terms of this Agreement to the intent that, subject as aforesaid, the holder of the Outstanding Loan in question may sue for debt in respect of its Outstanding Loan and is not limited to a remedy by way of account. For the avoidance of doubt, no Limited Partner shall be entitled to demand the repayment or to be repaid its Outstanding Loan other than in accordance with the provisions of this Agreement.

Suspension of Investment

* 1. The Manager shall ensure, both during and after the Investment Period, that it commits sufficient of its resources, investment professionals and time as is reasonably required to properly manage the affairs of the Partnership.
  2. Notwithstanding the provisions of clause 5.1, if prior to the termination of the Investment Period:
     1. subject to clauses 5.24 and 5.25, one or more of the Named Executives cease to devote the amount or proportion of their business time specified in Schedule 4 to the affairs of the Partnership (when averaged over any 12 week period) or becomes incapable for any reason of devoting such time;
     2. the Auditors do not or cannot provide the statement referred to in clause 8.2 within the time period specified therein;
     3. the Manager, the General Partner or any of the Named Executives, are convicted of any criminal offence (other than a minor road traffic offence), carrying a custodial sentence and/or involving dishonesty on the part of the convicted (including where a custodial sentence has not been passed in respect of the relevant conviction);
     4. a material breach of any laws or regulations applicable to the General Partner, the Manager or the Partnership which has a material adverse effect on the Partnership;
     5. the Commitment of the Preferred Partner at any time exceeds [66.6] per cent of Total Commitments (whether as a result of the forfeiture of the a Defaulting Investor under clause 5.15 or otherwise), except where the Manager and the Preferred Partner have previously agreed otherwise (and such agreement may require the situation to be remedied within a particular period, failing which a Suspension Event shall occur);
     6. the Preferred Partner determines in its absolute discretion that the Manager is not taking sufficient steps to recover any sums required to be recovered pursuant to clause 5.12;
     7. [the Named Executives] at any time have ceased to own or control at least seventy-five (75) per cent of the ordinary share capital and/or voting and/or economic rights of the General Partner and the Manager without the prior approval of the Investors by an Investors' Consent;[[14]](#footnote-14)
     8. the Preferred Partner determines in its absolute discretion that the Manager or the General Partner has materially or repeatedly failed to comply with the requirements of this Agreement, the Management Agreement or its Side Letter[[15]](#footnote-15), having been notified of such failure, and has not cured or put in place a plan for cure or remediation (where cure is possible) within 30 days of such notice, to the satisfaction of the Preferred Partner; or
     9. the Preferred Partner determines that a Cause Event has occurred,

(any such event being referred to in this clause as a “**Suspension Event**”) then the Manager shall not cause the Partnership to acquire or dispose of any Investments, other than where the Partnership had entered into a legally binding commitment to acquire or dispose of an Investment prior to the occurrence of the Suspension Event (a “**Suspension Period**”). The Manager shall notify the Investors promptly of any Suspension Event.

* 1. If a Named Executive ceases to devote the amount or proportion of their business time specified in Schedule 4 to the affairs of the Partnership (when averaged over any 12 week period) a Suspension Event will not be triggered if such reduced time is as a result of the following reasons, provided that the Preferred Partner will be notified as soon as reasonably practicable upon any Named Executive, the General Partner or the Manager becoming aware that any of the below circumstances may occur or has occurred:
     1. temporary ill health rendering such Named Executive temporarily unable to carry out their normal duties, provided that a certificate by a medical practitioner is required if such inability runs for more than 10 consecutive Business Days;
     2. such Named Executive taking such period of maternity leave, adoption leave, shared parental leave or paternity leave as such Named Executive is entitled to pursuant to United Kingdom law (as amended from time to time) or as otherwise agreed unanimously by the Named Executives from time to time and notified to the Preferred Partner; and
     3. such other reason as may be agreed with the Preferred Partner.
  2. In the event of a death or permanent illness of a Named Executive, a Suspension Event will not be triggered for a period of 6 months, provided that during this period the Manager is fully resourced and the Manager is in the process of recruiting a replacement Named Executive.
  3. At any time during a Suspension Period but prior to the termination of the Investment Period under clause 5.27:
     1. the Investors by an Investors' Consent may consent to: (i) the acquisition or disposition of an Investment; (ii) the lifting of the Suspension Period in full or in respect of Investments other than New Investments, and in either case with such conditions applying as the Investors may agree by Investors' Consent; and
     2. (where the Suspension Period arose as a result of a Suspension Event described in either clauses 5.23(d) or (f)), the Preferred Partner may consent to the issue of further Drawdown Notices for New Investments without requiring the consent or approval of any other Limited Partner or Limited Partners.
  4. If the acquisition of further Investments has not been resumed pursuant to clause 5.25 within 6 months of the commencement of a Suspension Period, then the Investment Period shall terminate.
  5. The Investors, by an Investors' Consent, may approve any person proposed by the Manager as an additional or replacement Named Executive. The General Partner shall procure that any additional or replacement Named Executive provides to the Preferred Partner a signed “Named Executive Statement” in a form satisfactory to the Preferred Partner on the date of their appointment as such.

# Operation and management of the Partnership

Appointment of a Manager

* 1. The General Partner shall be responsible for ensuring that the Partnership is always managed and operated, and that its investment portfolio is always managed on a discretionary basis, by an Authorised Person. Subject to clause 6.2, the General Partner shall have authority to select and/or terminate the appointment of any manager and/or to vary any of the terms of such appointment, in each case with the prior consent of the Investors by an Investors' Consent. If appointed, the Manager shall manage or operate the Partnership, and shall manage its investment portfolio in all cases under the supervision and authority of the General Partner who shall be responsible for supervising the Manager's performance of its obligations. The General Partner, if it decides to do so, may operate and manage the Partnership itself (in which case the General Partner shall itself assume the obligations and powers herein attributed to the Manager), provided that the General Partner shall only do so if it becomes and for so long as it remains an Authorised Person. The appointment of the Manager shall be without further charge to the Partnership. The General Partner has agreed with the Manager that it will pay to the Manager such fee as the General Partner may from time to time agree with the Manager. The Manager shall have no rights against the Partnership in respect of any management fees payable to the Manager.
  2. The General Partner (in its capacity as general partner of the Partnership) has appointed an Associate of the General Partner (or, if the General Partner so decides, but subject to clause 6.12, the General Partner itself) to act as manager of the Partnership pursuant to the Management Agreement as provided in clause 6.10(a). The General Partner (in its capacity as general partner of the Partnership) may appoint as manager any other Associate as manager and shall enter into the Management Agreement with each succeeding manager. The appointment of a manager which is not an Associate of the General Partner, or the continuing appointment of a manager which has ceased to be an Associate of the General Partner, shall only be valid if approved in advance by Investors by an Investors’ Consent.
  3. The Partnership shall not carry on any business or operations unless and until in relation to any business being carried on and which requires a manager which is an Authorised Person, it has appointed such a manager under clause 6.2, or at any time thereafter when no such manager is in office (unless the General Partner is an Authorised Person and acts as manager of the Partnership pursuant to clause 6.1).

Restriction on the Limited Partners and Supply of Information

* 1. The Limited Partners shall take no part in the operation of the Partnership or the management or control of its business and affairs, and shall have no right or authority to act for the Partnership or to take any part in, or in any way to interfere in, the conduct or management of the Partnership or to vote on matters relating to the Partnership, other than as provided in the Act or as set forth in this Agreement.
  2. Each of the Limited Partners shall, subject to having given reasonable notice, have access to and the right to inspect during normal business hours the books and accounts of the Partnership. For the avoidance of doubt, nothing in this Agreement shall give any of the Limited Partners a right of access to any Portfolio Company.
  3. The Manager and General Partner shall also provide the rights set out in clause 6.5 to any representative, employee or agent of the National Audit Office and shall at all times fully co-operate with and comply with any request of the National Audit Office.

Authority and Powers of the Manager

* 1. Subject to the provisions of this Agreement, the Manager shall have full power and authority, on behalf of the Partnership and so as to bind the Partnership thereby:
     1. to identify, evaluate and negotiate investment opportunities, to prepare and approve investment agreements and to (or to agree to) subscribe, purchase or otherwise acquire, alone or together with others, investments falling within the Investment Policy, and to sell, exchange or otherwise dispose of Investments for the account of the Partnership, and to enter into investment agreements or execute investment agreements on behalf of the Partnership accordingly (in each case whether personally or through an attorney or other agent) and, where appropriate, to give warranties and indemnities in connection with any such acquisition, sale, exchange or other disposal (or, as it may decide in its sole discretion at any time, in each case to direct the Partnership, acting through the General Partner, to do so itself);
     2. to monitor the performance of and, where appropriate, to nominate directors of Portfolio Companies, to exercise all rights conferred upon the Partnership under the terms of any investment agreement or otherwise in respect of a Portfolio Company and to liaise with, consult, assist or procure assistance to be given to Portfolio Companies and generally to take any action the Manager considers appropriate for the protection of Partnership Assets;
     3. to accept applications by and require the Partnership to admit prospective Limited Partners and to issue Drawdown Notices;
     4. to enter into, make and perform such deeds, powers of attorney, contracts, agreements and other undertakings, in connection with Investments or proposed Investments and to do all such other acts or things as it may deem necessary and/or advisable, for or as may be incidental to the conduct of the business of the Partnership (or in each case to direct the Partnership acting through the General Partner to do so itself);
     5. to borrow money on a short-term basis (being less than three months) for any of the purposes of the Partnership (provided that the aggregate of borrowings under this paragraph (e) shall not at any time exceed the lesser of fifteen (15) per cent of Total Commitments and the aggregate Undrawn Loan Commitments) and as determined by the Manager and in connection therewith to make, issue, accept, endorse and execute promissory notes, drafts, bills of exchange, guarantees and other instruments and evidences of indebtedness and to secure the payment thereof by mortgage, charge, pledge or assignment of or creation of a security interest in all or any part of the Partnership Assets (or in each case to direct the Partnership acting through the General Partner to do so itself) provided that the Partnership may not borrow from the Manager or its Associates;
     6. to commence, conduct, settle or defend litigation that pertains to the Partnership or to any of the Partnership Assets (or to direct the Partnership acting through the General Partner to do so itself) provided that such actions may not be taken in connection with any material litigation without an Investors' Consent;
     7. to maintain records and books of account of and in the name of the Partnership at the Partnership's principal place of business;
     8. to open accounts with banks or with custodians, for and in the name of the Partnership, maintain such accounts, give payment and other instructions (including instructions in respect of the payments referred to below in this clause 6.7) to banks in respect of such accounts and receive and pay into such accounts Capital Contributions, Loan Commitments advanced by Investors, investment income or other sums arising from or on the disposal of Investments and any other income of the Partnership and any fees to which the Partnership is entitled;
     9. to make distributions to the Partners in accordance with the terms of this Agreement;
     10. to grant and make payments in respect of indemnities in accordance with clause 16.2;
     11. to pay all of the fees and expenses referred to in clause 6.17 to the extent specified therein and to provide against present or future contemplated obligations and contingencies;
     12. to furnish reports and valuations to the Partners in accordance with the provisions of clause 15;
     13. to admit Substitute Investors to the Partnership in accordance with the provisions of clause 12;
     14. to appoint a depositary or custodian of the Partnership Assets (which for the avoidance of doubt may be the Manager or an Associate and to give settlement and other instructions to any such depositary or custodian of the Partnership Assets);
     15. to register and publish (or cause the General Partner to register and publish) all such notices, statements or other instruments as may be required pursuant to the Act to be registered and published in relation to the establishment of the Partnership and in relation to any changes occurring in relation to the Partnership as specified in sections 9 and 10 of the Act;
     16. pending the application of monies drawn down pursuant to this Agreement in making Investments, meeting liabilities of the Partnership or paying the General Partner's Share and pending distribution pursuant to the terms of this Agreement, to place amounts drawn down or realised (as the case may be) in deposit accounts in the name of the Partnership with a UK Credit Institution or, with the consent of the Preferred Partner, another financial institution;
     17. generally to communicate with the Partners and to report to the Partners at such times as it shall think fit or as are required in this Agreement;
     18. to pay, or direct the Partnership to pay, all amounts of Taxation for which the General Partner, the Manager, any Associate of either of them or the Partnership is liable on behalf of any Limited Partner or the Partnership or any amount of Taxation in respect of which any Partner or the Partnership has been assessed in the name of the General Partner, the Manager, such Associate or the Partnership, provided that, in respect of any liability to Taxation on behalf of any Limited Partner, the Manager shall first give notice to such Limited Partner of such liability to Taxation and shall, if so requested in writing by such Limited Partner, use its reasonable endeavours at the expense of such Limited Partner to ensure that the amount assessed is in fact due;
     19. to do all or any acts as are necessary or desirable in the reasonable opinion of the Manager in relation to the Partnership or any intermediate holding entity as regards (i) compliance with any Tax Information Arrangement, (ii) filing any Tax return or other document with a Taxation Authority, (iii) satisfying any Tax requirements or Taxation Authority requests or (iv) making any Tax elections, (including, but not limited to, conducting diligence as to the nationality, Tax residence, Tax status and/or Tax identification number of the Investors (or any person for whom an Investor holds their interest)), withholding or deducting any Tax required to be withheld or deducted from amounts allocable or paid to (or for the benefit of) Limited Partners, providing information about the Partnership’s, or any intermediate holding entity's, accounts, and the Limited Partners (and any persons for whom any Limited Partner holds their interest) to any applicable Taxation Authority, obtaining from the Limited Partners waivers of any applicable bank secrecy, data privacy or similar laws, and (subject to clause 8.8(c)) redeeming the Interest of any Other Investor (in whole or in part);
     20. to voluntarily enter into agreements on behalf of the Partnership with any applicable Taxation Authority to the extent it determines such an agreement is in the best interests of the Partnership or any Limited Partner or is necessary or desirable in connection with compliance with any Tax Information Arrangement or in connection with any other relevant Tax provision;
     21. to exercise such of the authorities and powers set out in paragraph (b) of clause 6.10 below as it may from time to time decide as referred to therein (whether instead of or concurrently with the General Partner);
     22. on behalf of and so as to bind the Partnership and the Partners as such, to enter into, make and perform such deeds, documents, contracts, agreements, undertakings, guarantees and indemnities as the Manager may, in its reasonable opinion, consider necessary or desirable in connection with the exercise of its powers pursuant to this clause 6.7 or otherwise in the furtherance of the Partnership's business; and
     23. to do all or any other acts as are required of the Manager by this Agreement or as are reasonably necessary or desirable in the reasonable opinion of the Manager in furtherance of the foregoing powers and consistent with the terms of this Agreement, provided, however, that the Manager shall not have power or authority to do anything that would contravene any provision of this Agreement.

Termination of the Manager's Appointment

* 1. The events on which the appointment of the Manager shall terminate shall be set out in the Management Agreement and shall include:
     1. the removal or withdrawal of the General Partner;
     2. the Manager ceasing to be an Authorised Person permitted under FSMA to manage or operate the Partnership or to act as manager of the Partnership's investment portfolio; and
     3. a decision by the General Partner, acting on behalf of the Partnership and with the prior consent of the Investors pursuant to an Investors' Consent, to terminate the appointment of the Manager.
  2. The Preferred Partner shall be immediately notified of the termination of the Manager's appointment.

Authority and Powers of the General Partner

* 1. Unless and except to the extent that the General Partner decides that the Manager should exercise exclusively (instead of concurrently with the General Partner) any of the powers in paragraphs (b) to (d) below, the General Partner shall have full power and authority to do each of the following acts or things (on behalf of the Partnership and so as to bind the Partnership thereby):
     1. enter into a management agreement with the Manager and with each succeeding manager in such form as it may approve (the "**Management Agreement**"), provided it: (i) reflects the requirements in relation to the management and operation of the Partnership as are set out in this Agreement; and (ii) shall not contain any provision imposing any liability on the Partnership or the Partners, except as a result of transactions or activities contemplated in this Agreement;
     2. execute any deed or document or do any other act or thing which the Manager may direct the Partnership and/or the General Partner to execute or do under the provisions of clause 6.7 or any other provision of this Agreement or the Management Agreement;
     3. veto the choice by the Manager of any depositary or custodian of the Partnership Assets;
     4. generally, as a partner, represent the Partnership in its dealings with the Manager, or in relation to the protection of Partnership Assets, or in any other respect, except where the power to do so is conferred on, or has been assumed by, the Manager under the terms of this Agreement; and
     5. to terminate the appointment of the Manager.
  2. Without prejudice to clause 6.10, the General Partner shall do all things and discharge all duties or requirements of or imposed on a general partner by the Act (whether or not on behalf of the Partnership) and in particular so as to ensure, so far as it is able, that the liability of the Limited Partners is and remains limited as provided in the Act; where it is to do so on behalf of the Partnership it is hereby expressly authorised to do so accordingly.

Restrictions on the General Partner

* 1. Notwithstanding anything in this Agreement to the contrary, the General Partner shall not do or be authorised to do anything (including acting or offering or agreeing to act as Manager or custodian of Partnership Assets) which might constitute a regulated activity for the purposes of FSMA unless it is an Authorised Person permitted to do so.

Separate Liabilities of the General Partner

* 1. The General Partner hereby undertakes that it shall:
     1. at all times duly and punctually pay and discharge its separate and private debts and engagements whether present or future incurred or assumed by it as principal and other than in its capacity as general partner of the Partnership; and
     2. keep the Partnership Assets and the Limited Partners and their personal representatives, estates and effects indemnified therefrom and from all liabilities, actions, proceedings, costs, claims and demands in respect thereof.

Restrictions on Marketing

* 1. Notwithstanding anything in this Agreement to the contrary, it is hereby agreed that no prospective investor in the Partnership shall be solicited by the Manager or any other Authorised Person in contravention of section 238 of FSMA or any other applicable law or regulation.

Side Letters

* 1. The Partners agree that the Partnership, the General Partner and/or the Manager may enter into side letters or other similar arrangements with individual Limited Partners which have the effect of establishing additional rights under, or altering or supplementing the terms of, this Agreement or the Deed of Adherence with respect to the relevant Limited Partner ("Side Letters").
  2. Notwithstanding clause 6.15, none of the Partnership, the General Partner nor the Manager may enter into any Side Letter with any Investor or prospective Investor without the prior disclosure to all of the Other Investors and the prior written consent of the Preferred Partner.

Expenses and Fees

* 1. The Partnership shall be responsible for:
     1. Formation Expenses up to an amount equal to £[*Amount*] (excluding any VAT thereon);
     2. Ongoing Expenses up to a maximum amount of £[*Amount*] (excluding any VAT thereon) per annum;
     3. Abort Costs (to the extent not borne by or recovered from the proposed investee company or any third party); and
     4. for the avoidance of doubt, VAT in respect of any of the foregoing.
  2. The Partnership shall not be responsible for any expenses or fees other than those set out in clause ‎6.17, including:
     1. any costs of the Manager in complying with AIFMD and/or the UK AIFMD or similar regulatory costs, except to the extent that such costs relate directly to the operation of the Partnership;
     2. expenses recovered from any Portfolio Company in which the Partnership has made (or proposes to make) an Investment;
     3. any fees, costs, charges and expenses for or relating to travel by the General Partner, the Manager or their Associates;
     4. expenses of the Manager (including, for this purpose, any fees or expenses payable to any third-party fund administrator) in connection with the management of the Partnership;
     5. Formation Expenses to the extent that they exceed the amount specified in clause ‎6.17(a) or Ongoing Expenses to the extent that they exceed the amount specified in clause ‎6.17(b), in each case inclusive of any VAT on such excess, each of which will be borne by the Manager (which the General Partner will procure), unless approved in either case by an Investors' Consent; and
     6. overheads of the General Partner or of the Manager including remuneration and expenses paid to their members, officers or employees, rent and utilities and expenditure and costs associated with the internal operations of the Manager.
  3. The General Partner, the Manager and their Associates shall be entitled to accept and retain for their own account:
     1. Transaction Fees;
     2. Co-investment Payments;
     3. Investment Related Fees;
     4. Abort Fees; and
     5. Other Fees,

provided that: (i) any Transaction Fees, Investment Related Fees, Abort Fees and Other Fees (in each case, net of any VAT related thereto) which are received shall, to the extent provided in clause 9, be credited against and reduce the General Partner's Share in accordance with clause 9.2; and (ii) twenty-five (25) per cent of any Co-investment Payments (net of any VAT related thereto) which are received shall be paid to the Partnership promptly following receipt. Notwithstanding anything to the contrary in these clauses 6.17 to 6.20 or clause ‎9, any such fees in the form of non-cash consideration shall be for the benefit of, and allocated to, the Partnership.

* 1. The Manager shall not charge any other fees in respect of its activities.

[Bidders may suggest other arrangements for charging such fees, but any fees charged should accrue to the Partnership.]

Prohibited Investments

* 1. Where the Partnership acquires any Prohibited Investments, the Manager shall sell such Prohibited Investments as soon as possible thereafter for the best price achievable in the circumstances. If, within 30 Business Days of the acquisition of the Prohibited Investment, the Manager has not entered into a binding agreement for the disposition of the whole of the Prohibited Investment, the Manager will promptly convene a meeting of the Advisory Committee in order to seek the advice of the Advisory Committee in relation to such Prohibited Investment.

Portfolio Company Disclosures

* 1. The Manager will notify each Portfolio Company, prior to the acquisition of the first Investment by the Partnership in such Portfolio Company, that:
     1. the Partnership is an "Enterprise Capital Fund"; and
     2. there is a cumulative limit within any 12-month period of £5 million of investment in any one company from the Partnership or any other "Enterprise Capital Fund".
  2. The Partnership shall not invest where doing so would breach the limit referred to in clause 6.22(b) above.
  3. In the event that an Investment is found to constitute or contain any element of unlawful State aid or subsidy, the Manager shall recover any sums from the relevant Portfolio Company which the Preferred Partner is required to recover pursuant to a decision of the Commission of the European Communities, European Court of Justice, any relevant court/tribunal in the UK or any other competent authority including for the avoidance of doubt any interest at the rate set by such authority. The Manager will ensure whenever an Investment is acquired that the investment documentation relating to the Investment provides an obligation on the relevant Portfolio Company to repay to the Manager or the Partnership, upon request, any sums so invested which are capable of being required pursuant to this clause.

Distributions in Specie

* 1. In furtherance of the Partnership making distributions in specie under clauses ‎11.13 and ‎14.13 (in each case with the prior approval of the Investors by an Investors' Consent), the Manager shall use its reasonable endeavours to procure that the terms and conditions on which it makes such Investments and the memoranda and articles of association or equivalent constitutional documents of each Portfolio Company provides that the Limited Partners are 'permitted transferees' (or the equivalent thereof) and that there are no other substantive contractual restrictions on the Manager (or winding-up trustee, if different) in making such distributions in specie to Limited Partners in accordance with clauses ‎11.13 or ‎14.13 (as the case may be).

# Debts and liabilities of the Partnership

The Limited Partners shall have no personal obligation for the debts or liabilities of the Partnership, except as provided in this Agreement and in the Act. The General Partner shall be fully liable for such of the Partnership's debts, liabilities and obligations as exceed the Partnership Assets.

# Partnership accounts and tax information

Books and Records

* 1. The Manager shall maintain records and books of account of and in the name of the Partnership at the Partnership's or its own principal place of business or at the principal place of business of any Associate of the Manager, and shall, on reasonable notice, allow any Limited Partner and its representatives reasonable access at any reasonable time for the purpose of inspecting the same.

Preparation of Annual Accounts

* 1. The Manager shall, in addition to performing its obligations under clause 15, prepare accounts of the Partnership for each Accounting Period in accordance with IFRS Accounting Standards, including a statement of financial position, a statement of profit and loss and other comprehensive income and a statement of cash flows. The Manager shall cause such accounts to be audited by the Auditors. A copy of the audited accounts including the report of the Auditors and a statement of accounting policies shall be despatched to each Partner as soon as possible and in any event not later than 90 days following each Accounting Date. The Manager shall request the Auditors to include with such accounts a statement that, in their opinion:
     1. all amounts allocated or distributed to Investors have been so allocated or distributed in accordance with the provisions of this Agreement; and
     2. the Investments acquired by the Partnership fall within the Investment Policy.
  2. The Preferred Partner may at any time require the Manager to instruct the Auditors to conduct a special audit of the Partnership and Partnership Assets on behalf of the Partnership in order to ascertain whether the Investments fall within the Investment Policy. A copy of scope of the audit instructing the Auditors and the report of the Auditors shall be despatched to the Preferred Partner no later than 90 days following the date of the request of the Preferred Partner. The costs and expenses incurred in the preparation of such special audit shall be borne by the Partnership.

Partner's Accounts

* 1. Each Partner shall have, inter alia, a capital contribution account, a loan account (if applicable), an income account and a capital account which will be operated as follows:
     1. the Capital Contribution of each Partner shall be credited to its capital contribution account;
     2. the Loan Commitment drawdowns shall be credited to its loan account and repayments of Outstanding Loan pursuant to clause 11.1 or otherwise pursuant to this Agreement shall be debited to such account; and
     3. the Net Income, Net Income Losses, Capital Gains and Capital Losses allocated to each Partner pursuant to clause 9 or 10 shall be credited or debited as the case may be to that Partner's income account or capital account, and distributions to each Partner pursuant to clause 11 (other than repayments of Outstanding Loan) shall be debited to that Partner's income account or capital account.

Tax Information

* 1. The Manager shall, upon request, promptly furnish to a Limited Partner any information in its possession that is reasonably necessary in order for such Limited Partner to file Tax returns and reports, to claim any Tax credits or Tax reliefs, or to make any claims for exemption from, repayment of or reduction of Tax withheld, or otherwise to comply with any applicable Tax laws or obligations.
  2. Each Limited Partner hereby agrees to furnish (including by way of updates) to the Manager, or as the Manager shall direct, in such form and at such time as is reasonably requested by the Manager, such information, representations, certifications, waivers and forms (including, where the Limited Partner holds as trustee or is transparent for tax purposes, in respect of beneficial holders or investors in the Limited Partner) as shall be reasonably requested by the Manager to assist it or the General Partner, as applicable, in:
     1. obtaining any credit, exemption, reduction or refund of any withholding or other Tax imposed by any tax authority or other governmental agency upon the Partnership, any intermediate holding entity or any Portfolio Company, amounts paid to the Partnership, any intermediate holding entity or any Portfolio Company, or amounts distributable by the Partnership to the Partners;
     2. claiming any other relief from Tax;
     3. complying with, or ensuring that the Partnership, the General Partner and each intermediate holding entity and Portfolio Company complies with their tax return and reporting obligations and with any Tax Information Arrangement;
     4. making, and complying (on a continuous basis) with the conditions of, any Tax elections; or
     5. satisfying any other Tax requirements under applicable law or Taxation Authority requests.
  3. The Manager and General Partner shall be entitled to disclose to each other, any intermediate holding entity or Portfolio Company, and/or any Taxation Authority the information, representations, certifications, waivers and forms provided pursuant to clause 8.6 and any other information in the possession of the Manager relevant to the matters referred to in these clauses 8.5 to 8.8, in each case to the extent such disclosure is reasonably required for the purposes listed in clause 8.6. For the avoidance of doubt, each Limited Partner is deemed to have irrevocably and unconditionally given its consent to the disclosure of such information and waived all rights it may have under applicable bank secrecy, data protection and similar legislation that would otherwise prohibit such disclosure, to the extent permitted by applicable law. Each Limited Partner shall notify the Manager as soon as reasonably practicable upon becoming aware that any information, representations, certifications, waivers or forms furnished under clause 8.5 above is or has become invalid or is not true and accurate in all material respects.
  4. In the event that any Other Investor fails to furnish such information, representations, certifications, waivers or forms to the Manager as are referred to in clause 8.6 above (the "**Requested Information**"), the Manager shall have full authority (without prejudice to its power and authority pursuant to clause 6.7 above) to take any and all of the following actions:
     1. to withhold or deduct any Taxes required to be withheld or deducted pursuant to any applicable legislation, regulations, rules or agreements;
     2. to report information about the Other Investor, and any person for whom the Other Investor holds an interest, to any Taxation Authority;
     3. to cause the Other Investor to withdraw from the Partnership pursuant to clause 12.9; and
     4. any other action to mitigate the consequences of such Other Investor's failure to comply with clause 8.6 or to ensure that the consequences of such failure are, to the extent practically possible, borne by such Other Investor (including ensuring that any Withheld Tax or Withholding Tax imposed pursuant to any Tax Information Arrangement is economically borne by the Other Investor whose failure to provide the Requested Information gave rise to the Withheld Tax or Withholding Tax).

If requested by the Manager, each Other Investor shall execute any and all documents, opinions, instruments and certificates as the Manager reasonably requests or that are otherwise required to effectuate the foregoing. Each Other Investor hereby grants to the Manager a power of attorney to execute any such documents, opinions, instruments or certificates on behalf of the Investor, if the Investor fails to do so in a timely manner or at all. Each Other Investor shall indemnify the Partnership, any intermediate holding entity and any Portfolio Company from and against any Taxes, interest, penalties, reasonable costs and other damages directly attributable to any failure by the Other Investor to comply with the provisions of clause 8.6 (which failure has not been cured within 5 Business Days of being notified by the Manager) or to the provision by the Investor of inaccurate, incomplete or misleading information under clause 8.6 or in its Deed of Adherence in each case to the extent attributable to such failure; this indemnification shall survive the disposition of the Other Investor's Interest. If a Other Investor is liable to pay any amounts under this indemnity, the General Partner shall be entitled to deduct any such amount not otherwise recovered out of future distributions due to it together with a reasonable rate of interest as appropriate.

# General Partner's Share

Allocation of the General Partner's Share

* 1. The General Partner shall be entitled to receive and, as a first charge on Net Income and Capital Gains, there shall be allocated to the General Partner in respect of each Accounting Period an amount equal to the General Partner's Share for that Accounting Period and pro rata in respect of Accounting Periods of more or less than one year.

Calculation of the General Partner's Share

**[This clause specifies a possible structure for the general partner's share, but applicants may specify alternatives].**

* 1. The General Partner's Share for each Accounting Period shall be an amount equal to:
     1. from the First Closing Date until the end of the Investment Period, an amount equal to [\*\*\*] per cent per annum of Total Commitments, less: (i) the Acquisition Cost of any Prohibited Investments; and (ii) in respect of the first Accounting Period only, the Unequalised Part; and
     2. thereafter, from the date of the end of the Investment Period until each anniversary of such date, as set out in Table A below, and thereafter as agreed by Investors' Consent (or, in the absence of such agreement, zero),

in each case calculated by reference to the daily balances thereof during such period and including, in respect of the period prior to the Final Closing Date, the Loan Commitments of Subsequent Investors which shall, for the above purposes, be treated as having arisen as of the First Closing Date.

*Table A*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| *General Partner’s Share after expiry of Investment Period* | Y1 | Y2 | Y3 | Y4 | Y5 |
| % per annum of Total Commitments (less the Acquisition Cost of any Prohibited Investments) | [\*\*\*]% | [\*\*\*]% | [\*\*\*]% | [\*\*\*]% | [\*\*\*]% |

The General Partner's Share in any Accounting Period shall be reduced by any Transaction Fees, Investment Related Fees, Abort Fees and Other Fees earned and retained by the General Partner, the Manager and any Associate of either of them during the previous Accounting Period net of any VAT related thereto. Where the General Partner's Share is reduced to zero in any Accounting Period any Transaction Fees, Investment Related Fees, Abort Fees and Other Fees not applied in reduction of the General Partner's Share in such Accounting Period shall be carried forward and shall reduce the General Partner's Share in the next Accounting Period. If, on termination of the Partnership, any such fees remain which have not been applied in reduction of the General Partner's Share in any Accounting Period they shall be distributed pro rata to all Limited Partners, other than Limited Partners who opt to waive such rights.

Provisions relating to General Partner's Share

* 1. The following provisions shall apply in relation to the allocation of the General Partner's Share:
     1. the General Partner's Share shall be satisfied as a priority allocation on Net Income in any Accounting Period;
     2. if Net Income in any Accounting Period exceeds the amount of the General Partner’s Share for that period, the General Partner shall be entitled to elect, so far as practicable, which items of Net Income are allocated to the General Partner; and
     3. if Net Income in any Accounting Period is less than the General Partner's Share, any surplus of Capital Gains over Capital Losses in such Accounting Period shall be allocated to the General Partner up to the amount of such shortfall,

provided that, instead of the order of priority set out in paragraphs (a), (b) and (c) above, the General Partner shall be entitled to allocate the General Partner's Share against such items of Net Income or Capital Gains as it may select.

Deficiency in General Partner's Share

* 1. If Net Income and Capital Gains less Capital Losses in any Accounting Period shall be less than the General Partner's Share, any deficiency, to the extent not already drawn by the General Partner under clause 11.20, shall be paid to the General Partner as an interest free loan but such payment shall not extinguish the amount of the General Partner's Share outstanding which shall be carried forward to subsequent accounting periods. In the event that any part of the General Partner's Share then unpaid can subsequently be satisfied by an allocation of Net Income or Capital Gains to the General Partner, such allocation shall be applied in the discharge of an equivalent amount of such loan; in no circumstances shall such loan be recoverable from the General Partner other than by an allocation of Net Income or Capital Gains in accordance with this paragraph.

Adjustment between Investors' Accounts

* 1. For the avoidance of doubt, the amount of the General Partner's Share and all expenses of the Partnership from the date of commencement of the Partnership which are charged to any Investor pursuant to this Agreement shall not be affected by the date upon which such Investor became a Limited Partner and the Manager shall be entitled to make such adjustment between Investors' accounts as it shall consider reasonable to reflect this.

# Allocation of Remaining Profits and Losses between Partners

Allocations

* 1. Every Partner has an interest in every asset of the Partnership. Net Income, Net Income Loss, Capital Gain and Capital Loss shall be allocated to the Partners in a manner consistent with their entitlements to distributions pursuant to clause 11.1, and with the previous sentence of this clause 10.1.
  2. Notwithstanding clause 10.1, all Deposit Interest shall be allocated only to the Investors, pro rata to their Outstanding Loans, or if the Outstanding Loans are zero, their Commitments.
  3. For the purposes of allocation under clauses 10.1 and 10.2, amounts of Net Income and Capital Gains are deemed to be those amounts calculated before taking account of any Tax assessable on or payable by a Partner or the Partnership (other than VAT, stamp duties, stamp duty land tax or transfer taxes payable by the Partnership).

Disposal of Investments after a Repayment Date

* 1. For the avoidance of doubt, where on the disposal of any Investment or Investments at any time, there is realised more than the amount required to repay the amount of the Outstanding Loan and the Preferred Return, such part of the income or proceeds of disposal as is in excess of the amount required to repay the Outstanding Loans and Preferred Return shall be treated as having been realised after such Repayment Date.

Distributions in specie

* 1. If a decision is made to distribute any Partnership Assets in specie in accordance with clause ‎11.13, those assets shall be deemed to be realised for the purposes of computing Capital Gains and Capital Losses at their value arrived at in accordance with that clause.

Adjustments upon Final Closing

* 1. In the event that any Net Income, Net Income Loss, Capital Gains or Capital Losses arise prior to the Final Closing Date, then the Manager shall be entitled to make such adjustment between the relevant Partner's accounts as it shall reasonably consider necessary in the circumstances so that each Investor shall have an interest in each such item pro rata to the size of its Commitment in the Partnership as at the Final Closing Date.

# Distributions of Capital Proceeds and Income between Partners

Application of cash

* 1. Subject to clauses 9, 11.2, 11.3, 11.7 and 11.17 all Income and Capital Proceeds of the Partnership shall be distributed in the following order of priority (after payment of the expenses and liabilities of the Partnership):
     1. first, in payment of the General Partner's Share (less any amounts already drawn in respect of the General Partner's Share under clause 11.20);
     2. second, to the Investors (pro rata to their Commitments) until the Investors have received the full amount of their Outstanding Loans;
     3. third, to the Investors (pro rata to their Commitments) until the Investors have received an amount equal to the difference between: (i) one hundred (100) per cent of Total Commitments; and (ii) the aggregate distributions made to Limited Partners (excluding any distributions that have been repaid to the Partnership), to the extent that such amount is greater than zero; [Applicants may specify alternative terms that provide adequate protection for British Business Finance Ltd.]
     4. fourth, the Preferred Partner's Profit Share to the Preferred Partner, and the remainder to the Other Investors (pro rata to their respective Commitments) until the Other Investors have been paid an amount equivalent to the Preferred Return;
     5. fifth, the Preferred Partner's Profit Share to the Preferred Partner, and the remainder to the Founder Partner in payment of such amount as is required in order to give the Founder Partner an amount equal to the Carried Interest Share of aggregate distributions under clauses 11.1(c), 11.1(d) and this clause 11.1(e) **[Note: Applicants may suggest alternative arrangements, so long as the Preferred Partner receives its full profit share]**;
     6. sixth, as to the Preferred Partner's Profit Share to the Preferred Partner, the Carried Interest Share to the Founder Partner and the remainder to the Other Investors (pro rata to the amount of their respective Commitments); and
     7. finally, at the end of the life of the Partnership, any balance remaining after the payments referred to above, in repayment of Capital Contributions in accordance with clause 14.10.

Distributions to Investors pursuant to this clause 11.1 shall be applied first in repayment of their Outstanding Loans (if any). Any date or time when the Outstanding Loans at that date or time shall have been repaid and the Preferred Return determined at such date or time shall have been paid shall be a Repayment Date and when any further tranches of Loan Commitment are drawn down after a Repayment Date, any payments made to Investors after that Repayment Date shall be treated as having been applied first in repaying the Outstanding Loans and then in paying the Preferred Return for the purpose of determining the amount of the Preferred Return and the next Repayment Date. Where the application of clause 11.1(c) results in Investors receiving an amount in excess of their Outstanding Loan, any such excess shall be applied to reduce the aggregate Outstanding Loan on any subsequent drawdown.

* 1. Notwithstanding the provisions of clause 11.1, the amount to which the Founder Partner would be entitled pursuant to clause 11.1 shall be reduced by an amount equal to the Carried Interest Share applied to:
     1. the aggregate of all Net Income and Capital Proceeds deriving from any Prohibited Investment; less
     2. the Acquisition Cost of such Prohibited Investment,

or, where such sum is less than zero, the amount to which the Founder Partner would be entitled pursuant to clause 11.1 shall be reduced by the whole of (b) minus (a) above.

* 1. Notwithstanding clause 11.1, all Deposit Interest shall be distributed only to the Investors, pro rata to their Outstanding Loans, or if the Outstanding Loans are zero, their Commitments.

Restriction on Distributions to the Founder Partner

* 1. Notwithstanding the provisions of clause 11.1, the Partnership shall not distribute, and shall retain, within the Partnership: (a) during the Investment Period, one hundred (100) per cent; and (b) following the Investment Period, fifty (50) per cent of such part of the Income and Capital Proceeds which would have been distributable to the Founder Partner pursuant to clause 11.1 (other than in respect of its Commitment) and such amounts shall be placed in a separate account for the benefit of the Founder Partner (the "Retained Account") and shall only be released in accordance with clauses 11.5and11.6.
  2. The Founder Partner shall be entitled to have distributed to it as Founder Partner cash from the Retained Account in such amount certified by the Auditors as is necessary to satisfy any charge or liability to Taxation which has arisen on the Founder Partner (or on any partner therein (an “**Indirect Participant**”)) or on any assignee(s) of all or part of its Share (as permitted pursuant to clause 12.1) in respect of any allocation to it or any such person of Net Income or Capital Gains pursuant to this Agreement (including for the avoidance of doubt any charge or liability to Taxation in respect of any interest payable on the Retained Account) or otherwise pursuant to applicable law which are not distributed to the Founder Partner due to the application of clause 11.4, and, subject to the remainder of this clause, any distribution made pursuant to this clause 11.5 shall not be repayable by the Founder Partner or any other person. Where any distribution from the Retained Account is made pursuant to this clause 11.5, if the Founder Partner, assignee or any Indirect Participant subsequently receives a Tax refund or Tax credit from any Taxation Authority in respect of the charge to Taxation for which such payment has been made (a “Tax Refund”), the Founder Partner or assignee will, or will procure that the relevant Indirect Participant(s) will, pay to the Partnership an amount equal to the Tax Refund, provided that no such payment will be made after the date of any distribution pursuant to clause 11.7 from the Retained Account.
  3. Following the date that: (a) all assets of the Partnership have been realised and no Undrawn Commitments remain, and all actual or anticipated (in the ordinary course of business) obligations or liabilities of the Partnership have been discharged; and (b) all amounts required to be contributed or paid pursuant to clause 11.7 have been contributed or paid, all amounts held in Retained Account (including any interest that may have accrued thereon) in excess of any amounts required to meet the provisions of clause 11.7 may be distributed to the Founder Partner. At any time when the Founder Partner has not fully discharged its obligations pursuant to clause 11.7, the Partnership shall distribute amounts retained in the Retained Account to the Limited Partners to the extent necessary to satisfy such obligations.

Clawback

* 1. On (a) the expiry of ten years from the First Closing Date; and (b) immediately prior to the completion of the winding up of Partnership, if either:
     1. the Founder Partner has received distributions that exceed the amount of distributions of that the Founder Partner should have received under clauses 11.1(e) and 11.1(f) (excluding, for the avoidance of doubt, any distributions in respect of its Commitment); or
     2. the Limited Partners have not been repaid their Outstanding Loans and the Preferred Return;

then within ten Business Days of such occurrence: (i) the Manager shall notify each Limited Partner in writing (providing detailed calculations), and (ii) the Founder Partner shall contribute to the Partnership the lesser of:

* + 1. the greater of: (i) the amount of the excess distributions described in sub-clause 11.7(a) and (ii) the amount of the shortfall described in sub-clause 11.7(b); and
    2. the amount of distributions made to the Founder Partner pursuant to clauses 11.1(e) and 11.1(f) (other than in respect of its Commitment), less the sum of any taxes actually paid or payable by the Founder Partner (or any Indirect Participant) thereon and that are non-deductible and irrecoverable, as disclosed and evidenced to the Limited Partners and have not been directly or indirectly recovered, and the Founder Partner shall use reasonable endeavours to recover (or to procure the recovery by Indirect Participants of) any such amounts),

and the General Partner shall procure that the Partnership shall distribute such amount to the Limited Partners.

Distribution of income

* 1. Subject to the provisions of clauses 11.7 and 11.11, Income of the Partnership shall be distributed in accordance with clause 11.1, in Sterling, as soon as practicable after 31 March, 30 June, 30 September and 31 December in each year in respect of the quarters ended on such dates, or more frequently at the discretion of the Manager.

Distributions of capital

* 1. Subject to the provisions of clauses 11.7, 11.10 and 11.11, Capital Proceeds shall be distributed in accordance with clause 11.1, in Sterling, as soon as practicable after the relevant amounts have been received by the Partnership.

Bank account

* 1. Pending distribution of sums, all such amounts shall be placed in an account with a UK Credit Institution or, with the consent of the Preferred Partner, another financial institution.

Re-investment

* 1. The Manager shall not be obliged to cause the Partnership to distribute Income and Capital Proceeds where the Partnership is entitled to re-invest these amounts in accordance with clause 5.3.

Limitations on Distributions

* 1. The Manager shall not be obliged to cause the Partnership to make any distribution pursuant to this clause 11:
     1. unless there is sufficient cash available therefor;
     2. which would render the Partnership insolvent; or
     3. which, in the reasonable opinion of the Manager, would or might leave the Partnership with insufficient funds or profits to meet any future contemplated obligations, liabilities or contingencies (including, the General Partner's Share in respect of any Accounting Period).

Distributions in specie

* 1. The Manager shall not be entitled to make a distribution in specie other than with the prior approval of the Investors by an Investors' Consent. If the Manager intends to make a distribution in specie under this clause 11.13, subject to any prohibitions on notification under any applicable law or regulation, it shall give at least 20 Business Days' written notice of such intention to each Investor, specifying: (a) the date of the proposed distribution; (b) the assets to be distributed (including, where appropriate, the class and number of such securities); (c) the basis of valuation of such assets; and (d) the Value to be attributed to the assets in question (or an indication of the basis on which such Value is to be calculated as at the date of the proposed distribution). Notwithstanding the approval of the Investors having been given by an Investors’ Consent, unless otherwise instructed by the Preferred Partner prior to the date of distribution, the assets that would have been distributed to the Preferred Partner shall instead be sold for the best price readily obtainable and the proceeds thereof distributed to the Preferred Partner without any deduction, less any reasonably incurred costs and expenses payable to any broker or other third party in connection with such sale.
  2. Each distribution in specie shall be made on the same basis as distributions of cash, such that each Limited Partner entitled to receive such distribution shall receive a proportionate amount of the total securities available for distribution, or (if such method of distribution is for any reason impracticable) such that each Limited Partner shall receive as nearly as possible a proportionate amount of the total securities available for distribution together with a balancing payment in cash in the case of any Limited Partner who shall not receive the full proportionate amount of securities to which he would otherwise be entitled hereunder. Any such distribution in specie shall be applied in the order set out in clause 11.1 at the Value of the Investment concerned.
  3. Where the distribution in specie is made contemporaneously with the Investment achieving a Quotation, the Value of the Investment concerned shall be the volume weighted average of the closing price of the relevant securities in the five trading days (including the date of distribution) following Quotation. Where a distribution in specie is made of securities which are already quoted on a stock exchange, the Value of such securities shall be the volume weighted average of the mid-market price of the relevant securities in the five previous trading days prior to and including the date of such distribution. For the avoidance of doubt, any Taxes payable on transfer shall be for the account of each relevant Limited Partner, as appropriate.
  4. The provisions of clauses 11.13, ‎11.14 and 11.15 apply to distributions in specie during the life of the Partnership and shall be without prejudice to the provisions of clause 14.13.

Withholding Tax

* 1. Each Partner authorises the Manager to withhold Tax from payments made by the Partnership or by any intermediate holding entity or Portfolio Company to or in respect of that Partner where such withholding is required by law (a "**Withholding Tax**"). If the Manager is required by law to withhold an amount in respect of Withholding Tax from payments made by the Partnership, the payment to the Taxation Authority which is required in connection with such Withholding Tax shall be made within the time allowed and in the minimum amount required by law. Evidence of such payment to the Taxation Authority in respect of that Withholding Tax will be provided to the Investor as soon as practicable. None of the Manager, the General Partner, the Partnership, any intermediate holding entity or any Portfolio Company shall be liable to indemnify, reimburse or otherwise compensate any Partner for or in respect of any Withholding Tax or for or in respect of any amount deducted or withheld for or on account of Tax at source from any Income or Capital Proceeds of the Partnership ("**Withheld Tax**").
  2. For the purposes of clause 10 and clause 11, the amount of Net Income and Capital Gains allocated, and Income and Capital Proceeds distributed, to each Partner shall be deemed to be the aggregate of: (a) such Net Income and Capital Gains allocated/Income and Capital Proceeds distributed; (b) the sum of any Withholding Tax due and withheld (whether or not tax relief for the Withholding Tax is available to any particular Partner); and (c) the sum of any Withheld Tax in respect of such amounts (whether or not tax relief for the Withheld Tax is available to any particular Partner).

Taxation of Limited Partners

* 1. Each Limited Partner shall indemnify the Partnership, the General Partner, the Manager, any intermediate holding entity and any Portfolio Company in respect of Taxation which the Partnership, the General Partner, the Manager, the intermediate holding entity or the Portfolio Company (as the case may be) is required to pay on behalf of such Limited Partner or in respect of or by reason of such Limited Partner's Interest in the Partnership; such indemnity to be satisfied in the first instance by the Limited Partner concerned but, if not so satisfied, then satisfied out of the Partnership Assets (including by way of set off from any amounts owed to the relevant Limited Partner), in which event the Partnership shall be subrogated to the rights of the General Partner against such Limited Partner hereunder.

Drawings by the General Partner

* 1. The General Partner shall be entitled to make drawings out of the Partnership's cash funds, on the First Closing Date in respect of the period from such First Closing Date up to the first quarter date thereafter and thereafter on, or on the first Business Day following, 31 March, 30 June, 30 September and 31 December in each year, on account of the General Partner's Share for the quarter commencing on that date. If, at any time during or after a relevant Accounting Period, it should be discovered that drawings made in respect of that relevant Accounting Period are less or more than the amount that the General Partner is entitled to receive (whether by profit share pursuant to clause 9.1 or by interest-free loan pursuant to clause 9.4) pursuant to this Agreement then additional drawings shall be made to make good the shortfall or the excess shall promptly be repaid to the Partnership, as the case may be.
  2. In no circumstance (except to the extent of any excess drawings as stated in clause 11.20 above) shall any drawings made pursuant to this clause 11.21 be repayable by the General Partner other than by a set-off against allocations of Net Income and Capital Gains.

# Transfer or Assignment of Interests or Shares

Assignment of rights and obligations and retirement of the General Partner and the Founder Partner

* 1. The General Partner shall not Transfer all or any part of its rights and obligations as a general partner, other than to an Associate of the Manager or the General Partner (whereupon in the case of an assignment or transfer, such Associate shall become the General Partner in place of the transferor), or voluntarily withdraw as the general partner of the Partnership, without the approval of Investors by an Investors' Consent.
  2. The Founder Partner shall not Transfer all or any part of its Interest held in its capacity as Founder Partner without the prior approval of Investors by an Investors' Consent.

Restriction on assignment of interest of Limited Partners

* 1. No sale, assignment, transfer, exchange, pledge, encumbrance or other disposition (including the granting of any participation) whether direct or indirect, voluntary or involuntary (“**Transfer**”) of all or any part of the Interest or Share of an Other Investor (including, to an Associate or by operation of law, save to the extent set out in clause 12.5), shall be valid or effective except with the prior written consent of the Manager (which consent can be given or withheld in its sole and absolute discretion for any reason whatsoever) and provided that the transferee is not a Non-Profit or Public Investor and provided further that: (a) none of the matters listed in clause ‎12.5 apply; and (b) the transferor and the transferee each provide all such information as the Manager reasonably requests for the purposes set out in clause 8.6. In deciding whether or not to admit any prospective Limited Partner to the Partnership, the Manager shall have regard to the reputation of such person and whether the admission of such person could be detrimental to the reputation of the Preferred Partner and will not admit any such person to the Partnership unless, in its reasonable opinion, no such detriment would occur. The Preferred Partner shall notify the Manager of any sale, assignment or transfer of all or part of its Interest in the Partnership. The Manager shall, in relation to each such transferee comply with all anti money laundering and related laws, rules and regulations, the FCA Rules, any applicable tax reporting rules, and all other rules and regulations applicable to the Manager.
  2. The Transfer of any Interest or Share in the Partnership shall not cause the dissolution of the Partnership.
  3. Notwithstanding clause ‎12.3, but without prejudice to clause 12.4, no Transfer of all or any part of an Interest of an Investor shall be valid or permissible if:
     1. such Transfer would result in a violation of applicable law, including any securities laws, or any term or condition of this Agreement; or
     2. such Transfer would prejudice the tax position of the Partnership (including causing it to cease to be treated as a Partnership for any tax purposes).
  4. On the death of any Limited Partner which is a natural person, such Limited Partner's personal representatives shall automatically become Limited Partners in their place and shall not be considered to be Defaulting Investors pursuant to clause 5.12 and may, on or before the later of (i) the expiry of six months from the decease of such Limited Partner or (ii) one month following the grant of representation in respect of the estate of such Limited Partner, elect to assume all the rights and obligations of such Limited Partner and pay all amounts then due from such Limited Partner to the Partnership, or in default of such election and payment:
     1. such Limited Partner shall not be required to advance its proportion of the Loan Commitment relating to the Acquisition Cost of further Investments or the payment of expenses or loans on account of the General Partner's Share;
     2. the Commitment of the Preferred Partner shall reduce with effect from the date of death of such Limited Partner by such amount as is required to maintain the proportion that the Preferred Partner's Commitment bore to the aggregate amount of the Commitments immediately prior to the reduction in clause 12.6(a) above;
     3. such Limited Partner shall not be allocated or be entitled to receive any distribution of Income or Capital Proceeds in respect of any Investment in which it does not participate pursuant to sub-paragraph (a) above;
     4. an amount of the Net Income and Capital Gains derived thereafter from Investments, equal to the amount which would have been payable or is anticipated to be payable as part of the General Partner's Share had such Limited Partner not died, in respect of the drawn down proportion of the Limited Partner's Commitment, may be retained by and paid to the General Partner; and
     5. the Repayment Date, the allocation of profits and losses pursuant to clauses 9 or 10 and the distributions pursuant to clause 11 in respect of previous Investments shall be determined and applied in respect of such Investor as if it had participated in a separate partnership which had not made further Investments,

and the Manager shall be permitted to make such reasonable adjustment to the accounts of the Partners to deal equitably between them in relation to such Limited Partners as it may consider necessary.

Position of Substitute Investors

* 1. Each Substitute Investor shall be bound by all the provisions of this Agreement and, as a condition of giving its consent to any Transfer to be made in accordance with the provisions of this clause 12, the Manager shall require (and the transferring Investor shall take all necessary steps to ensure) that the proposed Substitute Investor acknowledges its assumption (in whole or, if the substitution is in respect of part only, in the proportionate part) of the obligations of the transferring Investor by agreeing to be bound by all the provisions of this Agreement and becoming a Partner and undertakes to indemnify the Partnership, General Partner and Manager in respect of any legal costs, taxes and expenses associated with such Transfer. The Substitute Investor shall not become a Partner and none of the Partnership, the General Partner or the Manager shall incur any liability for allocations and distributions made in good faith to the transferring Investor until the written instrument of transfer has been received by the Partnership and recorded in its books and the effective date of the Transfer has passed.

Assignment of Interests or Shares in Violation of this Clause

* 1. No transfer of an Interest or Share in violation of this clause shall be valid or effective, and the Partnership shall not recognise the same, for the purposes of making distributions of Income or Capital Proceeds or repayments of Outstanding Loan or otherwise with respect to interests in the Partnership.

Withdrawal

* 1. Except as provided in this clause 12, no Limited Partner shall have the right to withdraw from the Partnership.

Compulsory Transfers

* 1. Where a Limited Partner fails to comply with its obligations under clause 8.6 or where a Limited Partner's Interest, jurisdiction of tax residence or the status of, or the treatment or characterisation for applicable tax purposes of, the Partnership, any intermediate holding entity, Portfolio Company, payment or instrument in such jurisdiction is, in the opinion of the Manager (acting reasonably) likely to give rise to a material adverse effect on the Tax treatment or status of the Partnership, any other Partner, any intermediate holding entity or any Portfolio Company, the Manager may cause a Limited Partner to withdraw from the Partnership either by requiring the compulsory Transfer of its Interest in the Partnership or by compulsorily redeeming its Interest, as determined by the Manager in its absolute discretion and on such terms as the Manager, acting reasonably, shall determine.

# Meetings of the Partnership

* 1. The Manager shall convene annual meetings of the Partnership and may, whenever it thinks fit, convene other meetings of the Partnership, in any case on not less than 14 days' written notice in advance. Any Investors whose Commitments in aggregate represent twenty-five (25) per cent or more of the Total Commitments, or the Preferred Partner acting alone, may by notice in writing (accompanied by an agenda) requisition the Manager to call a meeting of the Partnership and the Manager shall convene such a meeting for a date no later than 21 days from the date of that notice. The Limited Partners may designate that the Manager and/or the General Partner (or their Associates or representatives) may not attend for all or part of such meeting.
  2. No business shall be transacted at any general meeting unless a quorum of Partners is present at the time when the meeting proceeds to business; save as herein otherwise provided, three Partners including the Preferred Partner present in person or by proxy shall be a quorum except if there are fewer than three Partners, in which case the meeting shall be quorate if all Partners attend. Any Partner may select a designee to attend and vote at any meeting on behalf of such Partner, and any Partner may attend a meeting by telephone or video conference.

Voting

* 1. At any general meeting a resolution put to the vote of the meeting shall be validly adopted if approved by Investors (present in person or by proxy) excluding the Founder Partner and any Investor which is an Associate of the Manager or the General Partner whose aggregate Commitments represent at least fifty (50) per cent of Total Commitments excluding for this purpose the Commitments of the Founder Partner and any Investor which is an Associate of the Manager or the General Partner. If, however, the particular action would under the terms of this Agreement require approval by Investors' Consent or otherwise, such resolution shall only be validly adopted if also approved pursuant to such terms.

Veto

* 1. Where an Other Investor holds aggregate Commitments representing at least fifty (50) per cent or more of Total Commitments (excluding for this purpose the Commitments of the Founder Partner and any Investor which is an Associate of the Manager or the General Partner), such amount shall be capped at 49.9 per cent for the purpose of any voting pursuant to the Partnership Agreement and the remainder of their entitlement will be disregarded.

# Termination and Liquidation

Termination

* 1. For so long as there are at least two Partners, the death, bankruptcy, insolvency, dissolution, liquidation or withdrawal of a Limited Partner shall not operate to terminate the Partnership and the estate or trustee in bankruptcy or receiver or liquidator of a deceased, bankrupt, insolvent or dissolved Limited Partner shall not have the right to withdraw the balances on such Limited Partner's partnership accounts or require repayment of such Limited Partner's Outstanding Loan otherwise than in accordance with this Agreement. For so long as there are at least two Limited Partners, no Partner shall be entitled to dissolve the Partnership by notice. Subject as provided in clause 14.3, the Partnership shall terminate on the expiry of ten years from the First Closing Date or shall terminate prior to such date upon the happening of any of the following events without any further action on the part of the Partners:
     1. the bankruptcy, insolvency, expulsion, resignation, dissolution, liquidation, removal or withdrawal of the General Partner (other than pursuant to clause 14.6), unless the Partnership is reconstituted pursuant to clause 14.4; or
     2. the agreement as to such termination by the General Partner, the Preferred Partner and of the Investors by an Investors' Consent; or
     3. the removal of the General Partner pursuant to clause 14.6 unless, in any such case, the Partnership is reconstituted pursuant to clause 14.4; or
     4. the decision by the General Partner to terminate the Partnership at any time after the termination of the Investment Period, provided that all Investments have been realised and the Partnership’s investment activities have been concluded.
  2. The General Partner shall notify Companies House within 14 days of becoming aware that the Partnership has been dissolved.

Extension of Life of the Partnership

* 1. The life of the Partnership may be extended, by the agreement of the General Partner and of the Investors by an Investors' Consent, by up to two additional one-year periods (each year subject to approval). Any such election shall be without prejudice to the earlier termination of the Partnership for a reason specified in clause 14.1. Any fees payable by the Partnership to the General Partner or any of its Associates, or any General Partner's Share payable, in each case, in such extended period shall be as approved by an Investors' Consent, and without such approval, shall be zero.

Continuation of the Partnership

* 1. If the Partnership would otherwise be terminated pursuant to clause 14.1(a) or (c) the Partnership may be reconstituted and its business continued pursuant to either clause 14.1(a), or clause 14.1(c) pursuant to an Investors' Consent, electing to continue the Partnership and electing a new General Partner, which consent must be obtained within 60 days after all Partners have been notified of the event of termination, whereupon the existing General Partner shall cease to be the General Partner and, subject to the provisions of clause 14.6, shall not be entitled to any compensation whatsoever in respect of the General Partner's Share, provided that the General Partner has received all payments to which it is entitled under clauses 10, 11.1 and 11.19up to the date of its ceasing to be the General Partner. Notwithstanding any consent granted pursuant to this clause 14.4, on any reconstitution of the Partnership the Investment Period shall be deemed to have terminated except to the extent unanimously agreed by all Investors.
  2. The General Partner, the Manager, their respective Associates and any directors or members of any such persons, shall be excluded from any vote, and their Commitments shall be excluded from Total Commitments for the purpose of any vote, pursuant to this clause 14.5.

Removal of the General Partner

* 1. At any time after the first anniversary of the First Closing Date, Investors, by an Investors' Consent, may remove the General Partner. Subject as provided in clause 14.7, such removal of the General Partner shall be without prejudice to the right of the General Partner to compensation for termination of its appointment in the amount of the General Partner's Share for the six months preceding removal, provided that, if such removal occurs or is only to take effect after a Suspension Period pursuant to clause 5.23, no such compensation shall be payable.
  2. The General Partner may be removed immediately at any time without compensation for termination of its office: (i) by Investors by an Investors' Consent; or (ii) on receipt of notice from the Preferred Partner:
     1. following the General Partner's, Manager's or any Named Executive's fraud, negligence, wilful misconduct, bad faith or reckless disregard of its obligations and duties as General Partner, Manager or Named Executive (as applicable) of the Partnership (including, in each case, where such conduct is by one or more of their respective Associates, members, directors or employees); or
     2. following a material breach by the General Partner or the Manager, as applicable, of the Partnership Agreement, the Management Agreement or any Side Letter provisions that relate to the operation of the Partnership as a whole and the General Partner or the Manager, as applicable, has not cured (where cure is possible), to the satisfaction of the Preferred Partner, within 30 days of the General Partner or the Manager, as applicable, becoming aware of such material breach;
     3. following the conviction of any of the Named Executives of any criminal offence (other than a minor road traffic offence) carrying a custodial sentence and/or involving dishonesty on the part of the convicted (including where a custodial sentence has not been passed in respect of the relevant conviction); or
     4. if the Preferred Partner determines in its absolute discretion that the Manager or the General Partner has materially or repeatedly failed to comply with the requirements of this Agreement (including the Investment Policy), the Management Agreement or its Side Letter, having been notified of such failure, and has not cured or put in place a plan for cure or remediation (where cure is possible) within 30 days of such notice, to the satisfaction of the Preferred Partner; or
     5. following a failure to comply with a Drawdown Notice by the General Partner, the Founder Partner or any Associate of the General Partner or Founder Partner; or
     6. following any material breach by the Manager, or its Associates, members, directors or employees, of the FCA Rules; or
     7. a material breach of any laws or regulations applicable to the General Partner, the Manager or the Partnership which has a material adverse effect on the Partnership; or
     8. the insolvency, administration, involuntary reorganisation or bankruptcy of the General Partner or the Manager; or
     9. a breach of either 12.1 or 12.2;

(each a "**Cause Event**"). The General Partner shall notify the Limited Partners immediately upon any occurrence of any Cause Event (other than under clause 14.7(d)).

* 1. Immediately following the removal of the General Partner pursuant to clause 14.6 above, the Carried Interest Share shall be reduced to a percentage of the original Carried Interest Share, calculated as follows:
     1. twelve (12) per cent cumulatively for each calendar year or part calendar year which has passed from the First Closing Date up to the fifth anniversary of the First Closing Date; and
     2. thereafter eight (8) per cent cumulatively for each subsequent calendar year or part calendar year,

up to a maximum total of one hundred (100) per cent.

* 1. Immediately following the removal of the General Partner pursuant to clause 14.7 above, the Carried Interest Share shall be reduced to zero and the Founder Partner shall thereafter no longer be entitled to distributions (other than in its separate capacity, if any, as an Investor).

Liquidation

* 1. Save as provided in clauses 4.3 and 5.15, a Limited Partner shall not have the right to the return of its Capital Contribution except upon the liquidation of the Partnership.
  2. Subject to clause 14.15, the General Partner shall not be personally liable to any Limited Partner for the return of Capital Contributions or Outstanding Loans.
  3. Upon termination or liquidation of the Partnership (unless reconstituted under clause 14.4), no further business shall be conducted (other than with the consent of Investors by Investors Consent), except for such action as shall be necessary for the orderly winding-up of the affairs of the Partnership, the protection and realisation of the Partnership Assets and the distribution of the Partnership Assets amongst the Partners. The Manager shall act as winding-up trustee (on terms to be agreed with Investors at the time), provided however that if the Partnership is terminated for a reason set forth in clause 14.1(a) or (c), unless the Partnership is reconstituted pursuant to clause 14.4, the Limited Partners shall designate some other person (who shall be an Authorised Person if required under FSMA) to act as a winding-up trustee or winding-up trustees and the Manager and General Partner agree to sign any engagement with such trustee as the Limited Partners may direct. In either case, the winding-up trustee or winding-up trustees shall receive such remuneration for so acting as Investors by an Investors' Consent shall agree.
  4. Upon termination of the Partnership, the winding-up trustee or winding-up trustees shall be authorised to sell any or all of the Partnership Assets on what it considers to be the best terms available or may, at its or their discretion and whether or not the same are subject to a Quotation, distribute all or any of the Partnership Assets in specie (with the prior approval of the Investors by an Investors' Consent) in accordance with clause 11 at the Value determined by the winding-up trustee.
  5. Upon termination of the Partnership, no Partner shall, subject to clause 14.15, be liable to any other Partner for repayment of such other Partner's Outstanding Loan.
  6. Notwithstanding the provisions of clauses 14.11 and 14.14, a Limited Partner who has an Outstanding Loan may sue the Partnership in debt for repayment of its Outstanding Loan if:
     1. repayment of its Outstanding Loan has become due in accordance with clause 11; and
     2. there has been a failure to make such repayment; and
     3. there are gross assets of the Partnership which should have been used in repayment of its Outstanding Loan in accordance with the provisions hereof which have not been so used,

but in such a case the liability of the Partnership to the Limited Partner suing shall be limited to the gross assets of the Partnership referred to in clause 14.15(c) above.

* 1. Notwithstanding any other provision of this Agreement, upon the appointment of any winding-up trustee under clause 14.13, the Manager and General Partner shall have no further authority to bind the Partnership or the Partners except as may be directed by the trustee.
  2. The Partnership’s winding-up period will commence on the day immediately following the termination date of the Partnership and shall be completed within three years of such date, subject to a one-year extension by the agreement of the General Partner and the Preferred Partner.
  3. On completion of the winding-up, the Capital Contributions subscribed by the Limited Partners shall be returned to them, but only to the extent of the realisation proceeds and the Partnership Assets then available.

# Reports and Valuation

Reports

* 1. As soon as practicable after, and in any event within 60 days of, the end of each calendar quarter ending on 31 March, 30 June, 30 September and 31 December in each year the Manager shall prepare and send to each Limited Partner a report in the form and containing the information provided for in the Reporting Template, subject to such amendments as are agreed by an Investors' Consent and, as a minimum, containing:
     1. for each Investment in each Portfolio Company, the length of time since the date of acquisition of such Investment;
     2. details of the Investments purchased and of Investments sold and otherwise disposed of during the relevant period;
     3. a statement of the Investments and other property and assets of the Partnership together with a brief commentary on the progress of Investments including any significant developments or events affecting Portfolio Companies;
     4. the Manager's unaudited valuation of each Investment (determined in accordance with the methodology prescribed in the definition of “Value”) and a portfolio valuation as at the end of the relevant quarter together with, in the case of the Preferred Partner, the valuation of the Preferred Partner's Interest in the Partnership on such basis as may be agreed with the Preferred Partner;
     5. in the case of the Preferred Partner alone, details of all prospective Investments and investment opportunities considered by the Manager since the date of the last such report including each of those items set out in clause 15.3; and
     6. in the case of the Preferred Partner alone, such other information as the Preferred Partner may reasonably require, including, but not limited to, from the seventh anniversary of the First Closing Date, a winding-up plan setting out the proposed process by which the Partnership shall be voluntarily wound up and dissolved upon its termination.

The Manager will ensure that the investment documentation entered into by the Partnership in respect of each Investment made by it shall permit the Manager to disclose to the Preferred Partner all information received from Portfolio Companies, including obtaining any necessary waivers or consents in respect of any confidentiality undertakings, and applicable Data Protection Laws.

* 1. On or prior to the end of each month the Manager shall prepare and send to the Preferred Partner (and, on request, to any Other Investor) a forecast of the projected funding requirements of the Partnership for the following three months and the intended use of any sums expected to be advanced.
  2. In respect of each Investment acquired by the Partnership, the Manager shall as soon as reasonably practicable and in any event within 30 days of the date of acquisition (and at such other times or frequency as the Preferred Partner may reasonably request from time to time) send to the Preferred Partner (or its representative) (i) confirmation that it has given the relevant Portfolio Company written notice that British Business Finance Ltd, HM Government or its agent may contact the Portfolio Company as required for any future evaluation of the Enterprise Capital Fund programme (ii) the following information in respect of the Portfolio Company in question:
     1. Portfolio Company name;
     2. Portfolio Company postcode;
     3. Management team; listing name, years in sector and previous business ownership;
     4. Companies House Company Registration Number (CRO), or VAT Registration Number;
     5. Product/service description and 4-digit Standard Industrial Classification (SIC) code(s);
     6. Date of inception / start up;
     7. Current revenues (dated);
     8. Number of full-time staff at time of application;
     9. Brief company plans for the new capital;

and/or (iii) such other information that the Preferred Partner may reasonably require and in such format as may be specified by the Preferred Partner from time to time.

* 1. The Manager undertakes to provide the Preferred Partner (in such template as the Preferred Partner may require from time to time) with the information specified in Schedule 5 within 60 calendar days of the end of each calendar quarter and such further information as the Preferred Partner may specify from time to time.

FCA Reports

* 1. The Manager will also provide to the Preferred Partner copies of all reports following any audits carried out by the FCA in respect of the Manager within 20 Business Days of receipt of such report by the Manager.

Retail Investor

* 1. Each Limited Partner which is not a Retail Investor located in the UK confirms that it requires the reports referred to in clause 15.1 instead of any periodic statements or other reports which might otherwise from time to time be required by the FCA. Each Limited Partner which is or which may in future become a Retail Investor located in the UK confirms that any periodic statement or other report from time to time required by the FCA shall be provided annually (or at such other intervals as may from time to time be the longest permitted by the FCA).

# Exculpation and Indemnities

Exculpation

* 1. To the maximum extent permitted by applicable law, none of the Indemnified Persons or LPAC Indemnified Persons shall have any liability for any loss to the Partnership or the Partners arising in connection with the services to be performed hereunder or pursuant to this Agreement, or under or pursuant to any management agreement or other agreement relating to the Partnership or in respect of services as a Nominated Director or which otherwise arise in relation to the operation, business or activities of the Partnership save in respect of any matter resulting from:
     1. in the case of any Indemnified Person, such Indemnified Person's fraud, wilful misconduct, bad faith or reckless disregard for their obligations and duties in relation to the Partnership or, save in the case of Indemnified Individuals, their negligence, or, in the case of the Manager, any matter resulting from a breach of any duty it may have, or any liability it may incur, to the Partnership or any Investor under the FCA Rules, FSMA, or any regulations or legislation created thereunder or
     2. in the case of any LPAC Indemnified Person, in respect of any matter resulting from that person's own fraud.

Indemnity

* 1. To the maximum extent permitted by applicable law, the Partnership agrees to indemnify and hold harmless out of Partnership Assets the Indemnified Persons and LPAC Indemnified Persons against any and all liabilities, actions, proceedings, claims, costs, demands, damages and expenses (including legal fees) incurred or threatened arising out of or in connection with or relating to or resulting from the Indemnified Person being or having acted as a general partner or manager in respect of the Partnership or arising in respect of or in connection with any matter or other circumstance relating to or resulting from the exercise of its powers as a general partner or manager or from the provision of services to or in respect of the Partnership or under or pursuant to any management agreement or other agreement relating to the Partnership or in respect of services as a Nominated Director or which otherwise arise in relation to the operation, business or activities of the Partnership provided however that any Indemnified Person or LPAC Indemnified Person shall not be so indemnified with respect to any matter resulting from:
     1. in the case of any Indemnified Person, their fraud, wilful misconduct, bad faith or reckless disregard for their obligations and duties in relation to the Partnership or, save in the case of Indemnified Individuals, their negligence, or, in the case of the Manager, any matter resulting from a breach of any duty it may have, or any liability it may incur, to the Partnership or any Investor under the FCA Rules, FSMA, or any regulations or legislation created thereunder; or
     2. in the case of any LPAC Indemnified Person, in respect of any matter resulting from that person's own fraud.

# Miscellaneous

**[The provisions below may not be suitable for all potential ECF Managers. Where these provisions are not suitable, applicants should indicate and justify the alterations proposed and demonstrate that the interests of all investors (including British Business Finance Ltd) will be protected.]**

Exclusivity and Conflicts of Interest

* 1. Other than with the prior consent of the Investors by Investors’ Consent, neither the General Partner nor the Manager nor any of their Associates shall close, advise or manage a new equity investment fund, managed account or other mandate having an investment policy substantially similar to that of the Partnership prior to the earliest to occur of the following dates:
     1. the end of the Investment Period; or
     2. the termination of the Partnership.
  2. The Manager hereby agrees that it shall procure that all investment opportunities received by the Manager, its Associates or any Named Executive falling within the Investment Policy (each a “**Partnership Opportunity**”) will first be offered to the Partnership to the fullest extent deemed prudent (and in the best interests of the Partnership) by the Manager, other than with the prior consent of the Investors by Investors’ Consent, provided that, following the expiry of the Investment Period, the foregoing obligation shall apply only to investment opportunities in respect of Follow-On Investments.

[**Applicants may specify alternative arrangements but for the avoidance of doubt, the ECF will have exclusivity and co-investments should only be offered where the Manager determines that there is excess to the amount of fund allocation and that such co-investments are in the best interests of Limited Partners]**

* 1. If all or any part of a Partnership Opportunity remains available for investment following the application of clause 17.2, the Manager may provide co-investment opportunities in respect of such Partnership Opportunity (whether by way of a direct investment in a Portfolio Company or as an investment through an intermediate holding vehicle) to selected Limited Partners or any third parties in accordance with this clause and clause 17.4 (each a “**Co-Investment Opportunity**”), provided that no such Co-investment Opportunity shall be allocated to the General Partner, the Manager or any of their Associates and to any director, officer, member, shareholder or employee of the General Partner, the Manager and/or their respective Associates (and any entity controlled directly or indirectly by any such individual and/or their spouse or relative (as defined in paragraph (b) of the definition of "Associate")) without the prior, written consent of the Investors by Investors’ Consent.
  2. The Manager shall not grant Co-investment Opportunities unless the Manager determines that the offering of such Co-investment Opportunity is in the best interests of the Partnership. The Manager shall offer any Co-investment Opportunities first to the Preferred Partner and to each other Limited Partner that has expressed an interest to the Managerin participating in co-investment opportunities in their Side Letter pro rata in proportion to the Commitments of such Limited Partners and each such Limited Partner shall be entitled to accept such offer. Any Limited Partner which is interested in acquiring more than its pro rata share shall, at the time of accepting the foregoing offer, shall notify the Manager of the maximum amount of such Co-investment Opportunity that it wishes to acquire. If following the offer of a Co-investment Opportunity pursuant to this clause 17.4, any portion of such Co-investment Opportunity remains available, the Manager shall allocate the remainder of such opportunity pro rata to the respective Commitments of any Limited Partner that has indicated that it wishes to acquire a greater amount (but not in excess of each Limited Partner’s maximum amount as notified to the Manager). Only to the extent any Co-investment Opportunity remains available following the completion of the foregoing (and not otherwise), the Manager may then offer such Co-investment Opportunity to any other party or parties, whether or not investors in the Partnership but subject to clause 17.3, provided that such Co-investment Opportunity is not offered on better terms than it was offered to the Limited Partners. Any co-investment made under clauses 17.3 or 17.4 must be made and divested at the same time and on the same terms (save as required for legal, tax or regulatory purposes) as the corresponding investment by the Partnership. In the case of any co-investment made under clauses 17.3 or 17.4, each co-investor shall bear its pro rata share (based on capital committed to such co-investment) of any fees, expenses and liabilities relating to the relevant Investment.
  3. The General Partner and the Manager shall adopt and adhere to a Conflicts Policy, a copy of which shall be provided to the Investors upon request.
  4. Other than with the prior agreement of the Investors by an Investors’ Consent, the Partnership shall not:
     1. make any Investment in any Portfolio Company in which the General Partner, the Manager or any of their respective Associates, any of their respective directors, officers or employees or any relative (as defined in paragraph (b) of the definition of "Associate") or any account or fund controlled, managed or advised by the General Partner, the Manager or any of their respective Associates holds an existing interest or have the right to acquire securities, other than on the same terms and conditions, and at the same time, as an unrelated third-party investor who is acquiring securities whose cost is at least fifty (50) per cent of the Acquisition Cost of the equivalent Investments which are to be acquired by the Partnership;
     2. the Partnership shall not sell Investments to, or acquire Investments from, the General Partner, the Manager, or any of their respective Associates or any account or fund controlled, managed or advised by General Partner, the Manager or any of their respective Associates;
     3. enter into any transaction if such transaction by Partnership presents an actual or potential conflict of interest between the interests of: (i) the General Partner, the Manager and any Associate of either of them, and any of their respective members, officers, directors, employees, partners, and (ii) the Partnership; or
     4. the Partnership shall not enter into an agreement to provide goods or services with the Manager, the General Partner or any of their Associates, other than: (i) the Management Agreement; or (ii) the extent provided for under this Agreement.
  5. The General Partner and the Manager shall procure that none of their Associates nor any other fund or account controlled, managed or advised by either of them, nor or any of their respective directors, officers or employees or any relative (as defined in paragraph (b) of the definition of "Associate") of such person shall acquire any securities directly or indirectly in any Portfolio Company (other than as a result of having made a Commitment to the Partnership), other than agreed by an Investors' Consent.

Confidential Information

* 1. Subject to clauses 17.9 to 17.12 (inclusive), the Limited Partners shall not, and each Limited Partner shall procure that every person connected with or associated with such Limited Partner shall not, disclose to any person, firm or corporation or use to the detriment of the Partnership or any of the Partners (other than in connection with claims against such parties in respect of any breach of their obligations and duties under this Agreement) any confidential information which may have come to its or their knowledge concerning the affairs of the Preferred Partner, HM Government, the Partnership or any Portfolio Company or proposed investments, unless required to do so by law or by a court of competent jurisdiction or by the regulations of any relevant stock exchange or the FCA or any other regulatory authority to which such Limited Partner or any such person connected or associated with such Limited Partner is subject, provided however that in respect of each Limited Partner the foregoing obligation not to disclose information shall not apply to information which:
     1. is possessed by such Limited Partner prior to the receipt thereof from the Manager; or
     2. becomes known to the public other than as a result of a breach of such obligations by such Limited Partner or any of its Associates.
  2. The Preferred Partner shall be entitled to disclose any information relating to the Partnership, the Partners, the Manager or its Associates (including information relating to any Investment and any reporting information provided under Clause 15) to the National Audit Office, UK Parliament, any of its Associates or any governmental body or department, or any replacement body of or successor body to any such organisation.
  3. The information that the Preferred Partner is permitted to disclose pursuant to clause 17.9 may include details of the geographical background, industry sectors, size or turnover of Portfolio Companies and details of the founders, owners, and management of Portfolio Companies, whether on an individual or aggregated basis, provided that the Preferred Partner shall not publicly disclose any such information which the Manager has notified the Preferred Partner as being, in the Manager’s reasonable belief, detrimental to a Portfolio Company or to the Manager, save to the extent required by applicable law or regulation (it being noted and agreed that disclosure as contemplated by clause 17.9 shall not constitute disclosure to the public for other purposes).
  4. Notwithstanding clauses 17.9 and 17.10, the Preferred Partner shall be entitled to share aggregated confidential information relating to the Partnership and/or the Portfolio Companies (specifically including, but not limited to, the performance data of the Partnership and/or the Portfolio Companies) on the website found at the domain name british-business-bank.co.uk provided that the data is anonymised and aggregated in such a way that the Partnership cannot be identified solely from the published information.
  5. Notwithstanding clause 17.8, a Limited Partner shall be entitled to disclose information received by it pursuant to clauses 8.2 and 15 concerning the business or affairs of the Partnership to:
     1. its shareholders;
     2. its bona fide advisers and auditors;
     3. the Other Investors;
     4. any governmental, regulatory or tax authorities to which such Limited Partner is accustomed or required to report; or
     5. if the Investor is a fund of funds (or equivalent) to such Investor's investors,

provided that such disclosure shall only be allowed if the recipient is bound by an equivalent obligation of confidentiality in respect of the use and dissemination of such information, and the Limited Partner shall remain liable for the actions of such recipients.

* 1. Neither the General Partner nor the Manager shall adjust, limit or withhold any information regarding the Partnership or its Investments from the Preferred Partner, except for information which cannot be disclosed pursuant to the Manager’s legal or regulatory obligations.

Advisory Committee Membership

* 1. The Partnership shall have an Advisory Committee comprising at least two and up to **[to be specified in bid]** members. The Manager, in its absolute discretion, shall have power to determine the membership of the Advisory Committee from time to time, provided however that the members of the Advisory Committee shall not include any officer, employee or executive of the General Partner, Manager or any Associate. The Manager may agree with certain Investors that the Manager will appoint persons nominated by such Investors provided that such persons shall act as members of the Advisory Committee and not as agents of such Investors. The Preferred Partner shall be entitled to appoint a representative to the Advisory Committee.

Convening of Meetings

* 1. The members of the Advisory Committee shall be invited by the Manager to attend a meeting at least twice annually as the Manager may determine, provided that any two members of the Advisory Committee may convene further meetings. Where a meeting is convened by the Manager a report will be circulated to the members of the Advisory Committee at least five (5) Business Days in advance of the meeting. This report will cover the Manager's assessment of the performance of the Partnership and include, inter alia, commentary on deal flow, marketing activity, investment and disposal activity, progress of portfolio companies and fund administration (including time commitments, resources deployed, conflicts of interest, complaints and compliance). The members of the Advisory Committee shall be reimbursed by the Partnership for reasonable expenses incurred while acting in that capacity but shall not be otherwise compensated for their services as Advisory Committee members. Representatives of the Manager shall be entitled to attend and speak at meetings of the Advisory Committee.

Function

* 1. The function of the Advisory Committee shall be to be consulted by the Manager on (i) general policies and guidelines, (ii) for advice into any aspect or attributes of any prospective investment sectors, (iii) conflicts of interest in respect of the Partnership and the Investment Policy, including whether, in its opinion, a proposed investment falls within the Investment Policy. The Advisory Committee may also determine the appropriate course of action in relation to an existing or potential conflict of interest situation involving the Manager and/or its Associates and any Investors. In the case of doubt in relation to the suitability of a proposed Investment, the Manager may consult with the Advisory Committee as to the type of Investment proposed to be made, and the Manager and the Partnership shall not be considered to be in breach of these restrictions when following the guidance subsequently provided by the Advisory Committee.. The members of the Advisory Committee shall not take part in the management of the Partnership's business, nor shall they in their capacity as members of the Advisory Committee make any investment decisions or carry on any regulated activity as such term is defined for the purposes of FSMA. For the avoidance of doubt, no member of the Advisory Committee shall owe any fiduciary duty to the Partnership by reason of such membership.

Operation

* 1. All decisions of the Advisory Committee shall be taken by vote of a majority of its members for the time being, either at a meeting called by the Manager in its discretion or, where no meeting is held or in the case of those members who decline to attend a meeting, by the members communicating to the Manager their vote. Decisions of the Advisory Committee shall be made on a show of hands basis with each member having one vote provided that any member representing or nominated by an Investor shall not be entitled to vote where such member or Investor is the subject of a conflict of interest connected with such vote. The Advisory Committee may designate that the Manager and/or the General Partner (or their Associates or representatives) may not attend for all or part of such meeting. Minutes shall be taken of meetings of the Advisory Committee and circulated to each member of the Advisory Committee and to each Investor as soon as reasonably practicable following the meeting.

Previous Agreements

* 1. This Agreement supersedes and replaces the Initial Agreement. The Partnership is continuous with the partnership established by the Initial Agreement.

Variation of Partnership Agreement

* 1. This Agreement and the Investment Policy may only be amended (whether in whole or in part) by the written consent of the General Partner and of the Investors by an Investors' Consent, provided however that no such variation shall be made which:
     1. shall impose upon any Partner any obligation to make any further payment to the Partnership beyond the amount of its Capital Contribution and of its Loan Commitment (if any); or
     2. otherwise materially adversely affects the rights and interests of any Limited Partner, including without limitation any change in the distribution or in the allocation of Net Income, Net Income Loss, Capital Gain and Capital Loss,

without the affirmative consent of all Partners adversely affected thereby. This clause itself may not be amended.

Notices

* 1. Notices which may be or are required to be given under this Agreement by any party to another shall be in writing (including email) and shall be deemed to have been properly given if: (i) delivered in person; (ii) sent by mail; (iii) sent by courier service; or (iv) sent by email, to the relevant party at the address given in this Agreement (or, in the case of an Investor (other than the Preferred Partner), in its Deed of Adherence) or to such other address as may be notified in writing for the purposes of this Agreement to the party serving the document. The first addresses and email addresses for the General Partner and the Manager shall be as follows:
     1. Address for General Partner

[*address to be inserted*]

[*email address to be inserted*]

* + 1. Address for Manager

[*address to be inserted*]

[*email address to be inserted*]

* 1. Any notice will be effectively served and shall be deemed to be received:
     1. if delivered by hand or courier, at the time of delivery if delivered before 5.00 p.m. on a Business Day and otherwise at 9.00 a.m. on the first Business Day following publication;
     2. if delivered by registered mail, on the third Business Days after it was posted; or
     3. if delivered by email, on the date of transmission if transmitted before 5.00 p.m. on a Business Day and otherwise at 9.00 a.m. on the first Business Day following transmission.
  2. In proving service in accordance with these clauses 17.20 to 17.23, it shall be sufficient to show that: (i) the envelope containing the notice or other communication was properly addressed and was either delivered to the relevant address by hand or posted by registered mail to the relevant postal address; or (ii) that the email was sent to the relevant email address and that no delivery failure notification was received by the sender.
  3. Notwithstanding any other provision of this Agreement, the Manager shall be entitled to despatch any or all reports (whether annual, periodic or otherwise) to the Investors by email.

Auditors

* 1. The Auditors may resign from office or be removed at any time by the Manager.
  2. In the event of resignation or removal, the Manager shall invite the outgoing Auditors to send a written notice to each of the Limited Partners stating that there are no circumstances connected with their resignation or removal which they consider should be brought to the attention of the Limited Partners or, alternatively, a statement of any such circumstances.
  3. The Manager shall appoint such firm of chartered accountants which are part of an internationally recognised accounting firm as it may in its discretion think fit to fill any vacancy arising in the office of the Auditors to the Partnership.

Non-Recognition of Trust Arrangements

* 1. The General Partner shall treat those Limited Partners registered as the Limited Partners of this Partnership under the Act as the Limited Partners of the Partnership under this Agreement and shall not (other than as agreed otherwise herein) recognise any trust arrangement or other arrangement under which any such Limited Partner may hold its interest in the Partnership whether or not such arrangement shall have been notified to it.

Agreement Binding Upon Successors and Assigns

* 1. Except as herein otherwise specified this Agreement shall enure for the benefit of and shall be binding upon the heirs, executors, administrators or other representatives, successors and assigns of the respective parties to this Agreement.

Execution in Counterpart

* 1. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, and all the counterparts shall be taken together shall be deemed to constitute one and the same agreement and each of which individually shall be deemed to be an original, with the same effect as if the signature on each counterpart were on the same original.

Costs

* 1. Except as expressly provided in this Agreement, each party shall pay its own costs incurred in connection with the negotiation, preparation and execution of this Agreement and any documents referred to in it.

Governing law and jurisdiction

* 1. This Agreement and the rights, obligations and relationships of the parties to this Agreement under this Agreement and any Deed of Adherence and any dispute or claim arising out of or in connection with them or their subject matter, whether of a contractual or non-contractual nature, shall be governed by and construed in accordance with the laws of England and Wales and all the parties irrevocably agree that the courts of England and Wales are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement or any Deed of Adherence or the acquisition of Commitments, whether or not governed by the laws of England and Wales, and that accordingly any suit, action or proceedings arising out of or in connection with this Agreement or any Deed of Adherence or the acquisition of Commitments shall be brought in such courts. The parties hereby waive, to the extent not prohibited by applicable law, and agree not to assert by way of motion, as a defence or otherwise, in any such proceeding, any claim that it is not subject personally to the jurisdiction of such courts, that any such proceeding brought in such courts is improper or that this Agreement or any Deed of Adherence, or the subject matter hereof or thereof, may not be enforced in or by such court.

No right to partition

* 1. Each Partner irrevocably waives during the term of the Partnership any and all rights to maintain an action (whether by law or equity) for partition with respect to any or all of the Partnership Assets.

Severability

* 1. If any clause or provision of the Agreement shall be held to be invalid or unlawful in any jurisdiction such clause or provision shall only be ineffective to the extent of such invalidity or unenforceability. The remainder of this Agreement shall not be affected thereby and shall remain in full force and effect and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. Furthermore, 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, the provision in question will apply with the minimum modifications necessary to make it valid and enforceable.

Contracts (Rights of Third Parties) Act 1999

* 1. Except as expressly stated in this clause, this Agreement does not confer any rights on any person or party (other than the parties to this Agreement) under the Contracts (Rights of Third Parties) Act 1999. In accordance with section 1 of the Contracts (Rights of Third Parties) Act 1999:
     1. the Manager shall be entitled to enforce all the rights and benefits accorded to the Manager by this Agreement at all times as if it were a party to this Agreement; and
     2. each Indemnified Person shall be entitled to enforce all the rights and benefits accorded to Indemnified Persons by clauses 16.1 and 16.2 at all times as if it were a party to this Agreement.
  2. The Partners may rescind, amend or terminate this Agreement in accordance with clause 17.17 or as otherwise set out in this Agreement without the consent of the Manager or any Indemnified Person.
  3. No Indemnified Person may bring any action to enforce, nor assign in whole or in part, its rights under this Agreement without the prior written consent of the Manager, which may be withheld at the sole discretion of the Manager.

Waiver

* 1. No failure to exercise and no delay in exercising on the part of any of the Partners any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies otherwise provided by law.

Reproduction of documents

* 1. This Agreement and all documents relating to it, including, any consents, waivers, amendments and modifications which may hereafter be executed, and certificates and other information previously or hereafter furnished to any Partner, may be reproduced by it by any photographic, miniature photographic, electronic data storage or other similar process, and any Partner may destroy any original document so reproduced. The Partnership, the General Partner and each Limited Partner agree and stipulate that any such reproduction shall be as admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made by a Partner in the regular course of business) and that enlargement or further reproduction of such reproduction shall likewise be admissible in evidence.

Set-off

* 1. Where any Limited Partner owes any amount or has incurred any liability to the Partnership or the General Partner under this Agreement, and whether such liability is liquidated or unliquidated, the Manager shall be entitled to set-off the amount of such liability against any sum or sums that would otherwise be due to such Limited Partner under this Agreement.
  2. Any exercise by the Manager of the right of set-off under this clause shall be without prejudice to any other rights or remedies available to the Manager, General Partner or Partnership under this Agreement or otherwise.

Power of attorney

* 1. Each Limited Partner other than the Preferred Partner irrevocably appoints the General Partner (in its capacity as general partner for and on behalf of the Partnership) with full power of substitution, to be its true and lawful attorney and agent with full power and authority in its name and on its behalf to make, execute, sign, deliver, acknowledge, swear to, file and record on behalf of such Limited Partner deeds, documents, certificate or instrument reasonably necessary to give effect to the terms of this Agreement and such Limited Partner’s Deed of Adherence, securing to the General Partner the full benefit of the rights, powers, privileges and remedies conferred on the General Partner in this Agreement and its Deed of Adherence. For the avoidance of doubt, the powers of attorney granted to the General Partner pursuant to this clause 17.41 are intended to be ministerial in scope and limited solely to those items permitted under the relevant grant of authority, and such powers of attorney are not intended to be a general grant of power to otherwise independently exercise discretionary judgement on behalf of any Limited Partner.

***VAT***

* 1. All amounts payable under this Agreement shall, unless otherwise stated, be exclusive of any VAT. If the General Partner is liable to account for any VAT by reason of its being treated as making taxable supplies pursuant to this Agreement, it shall be entitled to be indemnified out of the Partnership Assets in respect of any such liability.

1. Schedule 1
   1. Investment Policy

***[Note - This draft schedule sets out the mandatory conditions that will apply to all ECFs. In addition, BBFL will wish to include additional provisions to ensure that ECFs are bound to adhere to the investment mandate they specified in their bids. Some scenarios and example provisions are included at the end of this schedule]***

1. **Specific Criteria**
   1. [To be specified in bidding materials, including which bands within paragraph 2.5 the fund will be targeting]
   2. Investments will be made within the guidelines, descriptions and proposals set out in the Bidding Materials and shall only be acquired by the Partnership where there is a realistic and significant prospect that the Investment will earn a material capital gain for the Partnership.
   3. Investments must be made within the terms of the Investment Policy [and Subsidy Control clearance][[16]](#footnote-16) given in respect of the Commitment of the Preferred Partner to the Partnership and disclosed to the Manager.
   4. Investments may only be made in compliance with the Conflicts Policy and this Agreement.
2. **Investment Size**
   1. Subject always to the limit set out in clause 6.22, (except with prior approval of the Investors by an Investors' Consent), the Partnership may only acquire Investments in a Portfolio Company where:
      1. the Total Initial Investment does not exceed £5 million (including for the avoidance of doubt any bridging or underwriting investments) (the "**Qualifying Round Size**");
      2. no previous single direct or indirect fund raising round of the Portfolio Company has exceeded the Qualifying Round Size; and
      3. the aggregate direct or indirect fund raising of the Portfolio Company prior to the proposed investment does not exceed £20 million.
   2. Initial Investments in any Portfolio Company shall only be acquired where supported by a business plan that demonstrates, insofar as is foreseeable to the Manager acting in good faith and having made reasonable enquiry, that the Portfolio Company will not require further funding from third-party sources within six months of the date of acquisition of the initial Investment (other than debt finance with no actual or potential interest in the equity share capital).
   3. Subject always to the limit set out in clause 6.22:
      1. during the first six months following the date of acquisition of the Partnership's first Investment in such Portfolio Company, the Partnership may not acquire further Investments in a Portfolio Company or any of its Associates, unless the aggregate of the Total Initial Investment and Total Subsequent Investment immediately after such further Investment would not exceed £5 million;
      2. during the following sixth months, the Partnership may not acquire further Investments in such Portfolio Company or any of its Associates unless the total Direct Acquisition Cost of all Investments in such Portfolio Company or any of its Associates acquired by the Partnership will not exceed £5 million; and
      3. after a period of twelve months has elapsed following the date of acquisition by the Partnership of its first Investment in any Portfolio Company, the Partnership may not acquire further Investments in such Portfolio Company or any of its Associates unless either:
         1. the total Direct Acquisition Cost of all the Investments acquired by the Partnership in such Portfolio Company and its Associates would not exceed Qualifying Round Size; or
         2. the acquisition of the Investment by the Partnership is necessary in the reasonable opinion of the Manager, based on reasonable grounds, to prevent or reduce dilution of the Partnership's proportion of the equity share capital of the Portfolio Company where such dilution would be brought about by an investor who is not an Associate of an Investor of the Partnership and the total Direct Acquisition Cost of all the Partnership's Investments in the Portfolio Company will not exceed [the lower of:]
            1. [fifteen] ([15]) per cent of Total Commitments; and
            2. such amount as when aggregated with the Direct Acquisition Cost of the Investment (when aggregated with such proposed investment) by the Partnership and any other Enterprise Capital Funds in the Portfolio Company would equal the Sterling equivalent (based on the Bank of England's daily spot exchange rate as at the date of this Agreement) of £15 million,

provided that, nothing in this paragraph 2.3(c)(ii)(2) shall be construed as to permit the Partnership to make an additional Investment for the full amount of additional capital being raised by the applicable Portfolio Company on a pre-emptive basis to prevent potential additional investors committing capital to such Portfolio Company.

* 1. Where the Partnership would otherwise be restricted from further investment into a Portfolio Company or any of its Associates under paragraph 2.3 above, the Manager may offer such excess as the Partnership is not able to acquire in accordance with clauses 17.3 and 17.4.
  2. The Partnership shall only acquire Investments in Portfolio Companies which:
     1. are SMEs and are expected following such Investment to continue to so qualify; and
     2. either:
        1. have not been operating in any market; or
        2. such investment will enable the Portfolio Company to: (1) launch a new product or products; (2) enter a new geographic market (other than the UK); (3) expand or accelerate the growth of an existing product or existing products; and/or (4) significantly grow market share, provided that the Direct Acquisition Cost of such Investment is a greater amount than an amount equal to fifty (50) per cent of the average annual turnover of the Portfolio Company of the five preceding calendar years.

For the avoidance of doubt, any special purpose vehicle used by the Partnership in the acquisition of Investments shall be disregarded for the purposes of this paragraph 2.5.

1. **Investment Types**
   1. The Partnership shall not acquire Investments in any Portfolio Company that, at the time of acquisition of such Investment, operates in any of the sensitive sectors set out in the UK Subsidiary Control Regime: Statutory Guidance (as amended or replaced) as at the time of such acquisition (as is currently available *https://www.gov.uk/government/publications/uk-subsidy-control-statutory-guidance*) or is expected to operate in any of such sensitive sectors in the future.
   2. Investments by the Partnership shall be in businesses:
      1. whose principal place of business is in the UK; and
      2. whose registered address is in the UK; and
      3. where the Investment by the Partnership is predominantly related to the economy of the UK; and
      4. where at least sixty-six ([66]) per cent of the executive management team are tax residents in the UK; and
      5. the above is part of the core plan for the business and no immediate changes are anticipated to the above post-investment,

except as otherwise previously agreed in writing with the Preferred Partner.

* 1. Notwithstanding the above, the Partnership may not acquire any Investment in any Portfolio Company which:
     1. at the time of acquisition of such Investment, contravenes the law or accepted standards of moral or ethical behaviour, or is associated with such activities. In the case of doubt, the Manager may consult with the Preferred Partner as to the type of Investment proposed to be made, and the Manager and the Partnership shall not be considered to be in breach of this restriction when following the guidance subsequently provided by the Preferred Partner; or
     2. at the time of initial Investment operates in a business or sector that could reasonably be expected to cause embarrassment to the Preferred Partner in view of its status as a governmental body or entity owned or controlled by a governmental body. In the case of doubt regarding the application of these restrictions, the Manager may consult with the Preferred Partner as to the type of Investment proposed to be made and the Manager and the Partnership shall not be considered to be in breach of this restriction where they follow the guidance subsequently provided by the Preferred Partner.
  2. Investments acquired by the Partnership shall take the form of the subscription, commitment or advance of additional funds to a Portfolio Company ("**Fresh Capital**") and not the purchase of securities from existing shareholders, creditors or Other investors, including but not limited to the buy-out of a Portfolio Company by an existing management team or the buy-in of a Portfolio Company by an external management team ("**Replacement Capital**") except:
     1. where the Fresh Capital represents at least twenty-five (25) per cent of the amount invested by the Partnership in the investment round; and
     2. the primary aim of the investment round is to provide funding to support the growth plans of the company.
  3. A maximum of five (5) per cent Total Commitments may be used for Replacement Capital.
  4. The Partnership shall not acquire Investments directly, or via a special purpose vehicle, in any Portfolio Company that, at the time of acquisition of such Investment, does not carry on a "qualifying trade" as defined in section 300 Income Tax Act 2007, as amended from time to time.
  5. Notwithstanding any other provision of this Agreement, the Partnership may not acquire Investments in a Portfolio Company:
     1. which are listed or quoted on an investment exchange whether in the United Kingdom or elsewhere;
     2. in any hostile transaction, where the investment is opposed by the majority of directors or shareholders of the Portfolio Company;
     3. in derivatives and similar securities; and
     4. in loan finance or debt instruments with no associated equity investment or warrants or other rights to acquire equity securities in the Portfolio Company which are acquired with the reasonable expectation that such warrants or other rights will be exercised.

1. Annex 1 to Schedule 1
2. **Application of GBER**
   * + 1. In this Annex, unless otherwise stated, words and expressions have the definitions, meanings or interpretations implied by GBER.
       2. This Annex 1 shall only apply to investments into Portfolio Companies which are subject to the Windsor Framework.
       3. The Windsor Framework will apply to Portfolio Companies active in:
     1. the generation, transmission, distribution and supply of electricity on the wholesale electricity markets in Northern Ireland or cross-border exchanges in electricity; and/or
     2. the trading of goods between Northern Ireland and the European Union. In most cases this will only be relevant where the Portfolio Company in question is located in Northern Ireland. For businesses based outside of Northern Ireland this will only be relevant if, exceptionally, the activities of the business in some way present a direct link to Northern Ireland (e.g. if the majority of sales are in Northern Ireland or the business has a very significant share of the Northern Irish market).
        1. The Partnership shall only invest in Portfolio Companies subject to the Windsor Framework in accordance with Article 21 (and other relevant provisions, including Article 22 to the extent applicable) of GBER and the specific State aid parameters that are set out below.
        2. The State aid parameters below take into account the requirements of Article 21 and other relevant requirements of GBER as it applies to equity and quasi-equity investments and instruments (as defined in Article 2(66) and (74), respectively, of GBER) (“**Risk Finance Investment(s)**”) providing risk finance directly or indirectly to eligible enterprises. However, it remains the responsibility of the Manager to ensure that any investment into a Portfolio Company is fully compliant with the requirements of Article 21 (and any other relevant provisions, including Article 22 to the extent applicable) of GBER.
3. **GBER Article 21**
   1. A business is eligible for investment (an “**Eligible** **Portfolio Company**”) if it is an undertaking which at the time of the initial Risk Finance Investment is an unlisted SME (for the purposes of this policy, SME shall have the meaning given to it in Article 2(2) of GBER (extracted in Annex 2 to Schedule 1)) and fulfils one of the following conditions:
4. it has not been operating in any market;
5. it has been operating in any market for any of the following:

less than 10 years following its registration (or, if not subject to registration, 10 years from the earlier of the business (i) starting economic activity or (ii) becoming liable to tax with regard to its economic activity); or

less than 7 years following its first commercial sale,

please note:

* + - 1. If one of the eligibility periods referred to in clause 2.1(b)(i) or 2.1(b)(ii) has been applied to a given undertaking, then that period must also be applied to any subsequent risk finance aid to the same undertaking.
      2. For undertakings that have acquired another undertaking or were formed through a merger, the eligibility period applied shall also encompass the operations of the acquired undertaking or the merged undertakings, respectively, unless the turnover of the acquired or merged undertakings whose turnover accounts for less than 10 % of the turnover of the acquiring/merged undertaking in the financial year preceding the acquisition or merger,

1. the Risk Finance Investment relates to an initial investment in a new economic activity which, based on a business plan prepared in view of entering this new activity, represents:

more than 30% of its average annual turnover in the preceding 5 years for:

investments that significantly improve the environmental performance of the activity (in accordance with Article 36(2) of GBER);

other environmentally sustainable investments (as defined in Article 2(1) of Regulation (EU) 2020/852); and/or

investments aimed at increasing capacity for the extraction, separation, refining, processing or recycling of a critical raw material (as listed in Annex IV of GBER),

more than 50% of average annual turnover in the preceding 5 years in all other cases.

* 1. Without limiting the operation of, and subject to, clauses 6.22 of this Agreement and clause 2.1 of Schedule 1, the Risk Finance Investment can cover Follow-On Investments made in such an Eligible Portfolio Company, including after the eligibility periods referred to in clause 2.1(B) above, if:

1. the total amount of the Risk Finance Investment does not exceed EUR 16.5 million;
2. the possibility of Follow-On Investments was provided for in the original business plan; and
3. the Eligible Portfolio Company receiving Follow-On Investments has not become a ‘linked enterprise’ (as per Article 3.3 of Annex 2 to Schedule 1) with another undertaking other than the financial intermediary or the independent private investor providing risk finance under the measure, unless the new entity fulfils the conditions of the SME definition.
   1. Risk Finance Investments may only provide Replacement Capital if the Replacement Capital is combined with new capital representing at least 50% of each investment round into the Eligible Portfolio Company.
   2. The total amount of Risk Finance Investments shall not exceed EUR 16.5 million per Eligible Portfolio Company.
   3. There must be a minimum level of private sector participation, taking into account private participation (excluding any participation by individual investors that benefits from tax incentives) at both the investor level and at the level of the Eligible Portfolio Company. The minimum private sector participation rates are:
4. 10% of the Risk Finance Investment provided to an Eligible Portfolio Company that is within the scope of clause 2.2(a);
5. 40% of the Risk Finance Investment provided to an Eligible Portfolio Company that is within the scope of clause 2.2(b);
6. 60% of the Risk Finance Investment provided to the Eligible Portfolio Company that is within the scope of clause 2.2(c) and for Follow-On Investments in Eligible Portfolio Companies after the eligibility period referred in clause 2.2(b).
7. The private participation rates mentioned in clause 2.5(b) and clause 2.5(c) can be reduced to 20% under 2.5(b) and 30% under 2.5(c) for investments that are either: made in assisted areas designated in an approved regional aid map in force at the time of provision of the Risk Finance Investment in application of Article 107(3), point (a), of the Treaty on the Functioning of the European Union.
   1. Where the Partnership targets Eligible Portfolio Companies falling under more than one of the categories above, the Manager must achieve a private sector participation rate that represents at least the weighted average based on the volume of the individual investments in the underlying portfolio and resulting from the application of the minimum participation rates to such investments as referred to above, unless the required participation from independent private investors is achieved at the level of the eligible undertakings.
   2. Decisions on the provision of Risk Finance Investments to Eligible Portfolio Companies should be taken on a fully commercial basis. Risk Finance Investments provided to Eligible Portfolio Companies shall be based on a viable business plan, containing details of product, sales and profitability development, establishing ex-ante financial viability. A clear and realistic exit strategy shall exist for each equity and quasi-equity investment.
   3. To the extent relevant, where the Risk Finance Investment takes the form of quasi-equity structured as debt, the Risk Finance Investment shall be made into Eligible Portfolio Companies that would not have otherwise received the Risk Finance Investment or where the Risk Finance Investment would have been carried out in a restricted or different manner without the aid.
   4. Risk Finance Investments in SMEs that do not fulfil the conditions laid down in clause 2.2 can still be permitted if they meet the criteria to be treated as *de minimis aid*, and the cumulative conditions in Article 21(17) of GBER are met. Further guidance should be sought in this scenario but note that (subject to some exceptions for e.g. assisted areas where a lower rate applies) there is normally a requirement for at least 60% private participation.
8. **Additional Requirements** 
   1. Risk Finance Investments may not be made:
9. in an undertaking in difficulty as defined under GBER;
10. where the business in question has already received support under the risk finance provisions of GBER or de minimis aid, if this would cause the thresholds in paragraph 2.4 above to be exceeded.
11. on terms that would involve a material violation of EU law e.g. by including obligations on the beneficiary to locate its headquarters in a particular jurisdiction, to use nationally produced goods or services or that restrict the exploitation of research, development and innovation results in other Member States; and
12. to an undertaking that is subject to an outstanding recovery order following a previous European Commission Decision declaring an aid illegal and incompatible with the common market.
13. Annex 2 to Schedule 1
    1. SME definition (Annex I GBER)

In this Annex, unless otherwise stated, words and expressions have the definitions, meanings or interpretations implied by GBER.

Article 1

**Enterprise**

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

Article 2

**Staff headcount and financial thresholds determining enterprise categories**

* + 1. The category of SMEs is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.
    2. Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.
    3. Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

Article 3

**Types of enterprise taken into consideration in calculating staff numbers and financial amounts**

* + 1. An ‘autonomous enterprise’ is any enterprise which is not classified as a partner enterprise within the meaning of paragraph 2 or as a linked enterprise within the meaning of paragraph 3.
    2. ‘Partner enterprises’ are all enterprises which are not classified as linked enterprises within the meaning of paragraph 3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of paragraph 3, 25% or more of the capital or voting rights of another enterprise (downstream enterprise).

However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25% threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:

* + - * 1. public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same enterprise is less than EUR 1,250,000;
        2. universities or non-profit research centres;
        3. institutional investors, including regional development funds;
        4. autonomous local authorities with an annual budget of less than EUR 10 million and less than 5,000 inhabitants.
    1. ‘Linked enterprises’ are enterprises which have any of the following relationships with each other:
       - 1. an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
         2. an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
         3. an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
         4. an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of paragraph 2 are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders.

Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors mentioned in paragraph 2, are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An ‘adjacent market’ is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

* + 1. Except in the cases set out in paragraph 2, second subparagraph, an enterprise cannot be considered an SME if 25% or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.
    2. Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the thresholds set out in Article 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25% or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or European Union rules.

Article 4

**Data used for the staff headcount and the financial amounts and reference period**

* + 1. The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.
    2. Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in Article 2, this will not result in the loss or acquisition of the status of medium-sized, small or micro-enterprise unless those thresholds are exceeded over two consecutive accounting periods.
    3. In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

Article 5

**Staff headcount**

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:

* + - * 1. employees;
        2. persons working for the enterprise being subordinated to it and deemed to be employees under national law;
        3. owner-managers;
        4. partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

Article 6

**Establishing the data of an enterprise**

* + 1. In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.
    2. The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies.

To the data referred to in the first and second subparagraph are added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in question, where the data were not already included through consolidation in the accounts.

* + 1. For the application of paragraph 2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation.

For the application of the same paragraph 2, the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To these are added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of paragraph 2.

* + 1. Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.

1. Schedule 2
   1. Form of Drawdown Notice

To: [Investor]

[Address]

For the attention of: [              ]

Date: 20[    ]

*[Name of ECF]*

*[Name of Manager]*

*[Address]*

Dear Sirs

Pursuant to clause 5.1 of the Partnership Agreement relating to [Name of ECF] dated [                ] 20[    ], you are hereby to required advance the sum set out below to the account of the Partnership set out below, on or before the date set out below, being at least 10 Business Days from the date hereof.

Sum required: £[ ]

Payment Date: [ ] 20[ ]

Bank name and address: [ ]

Account number: [ ]

Sort code: [ ]

The sums so advance by Limited Partners will be used as follows:

………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

*[Set out summary details of the proposed investment (if any), including the nature of the business of the prospective Portfolio Company.]*

[We hereby confirm that the proposed Investment described above (if any) falls within the Investment Policy.]

*[Give reasons if not otherwise apparent from the information set out above.]*

……………………………………  
For and on behalf of

*[Manager]*

1. Schedule 3
   1. Deed of Adherence[[17]](#footnote-17)

1. Schedule 4
   1. Working commitments of Named Executives

Each Named Executive shall devote no less than the below proportion of their business time to the business of the Partnership during the following periods unless otherwise agreed in writing in advance with the Preferred Partner:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **[Named Executive]** | **[Named Executive]** | **[Named Executive]** |
| **[During the Investment Period]** | [\*\*\*]% | [\*\*\*]% | [\*\*\*]% |
| **[After the Investment Period:]** | [\*\*\*]% | [\*\*\*]% | [\*\*\*]% |

1. Schedule 5
   1. Reporting Template [[18]](#footnote-18)

The below summarises the key areas and metrics of reporting that will be requested using specific templates. This is subject to change (including for relevant ESG reporting) and review and any Manager must agree to reasonable reporting requests.

* **Capital committed as of each quarter.** 
  + Capital contributed.
  + Less capital distributed.
  + Operating loss.
  + Realised gains/losses.
  + Gain/loss on revaluation at FV.
* **Information on the realisations and portfolio summary as of each quarter.** 
  + Realisations.
  + Disposal date.
  + Equity.
  + Cost.
  + Proceeds/valuations.
  + Realised and unrealised gain/loss.
  + Multiple to cost.
  + Gross IRR.
  + Exit route.
* **Cashflow and IRR calculations as of each quarter.** 
  + Contributions.
  + Management fee paid.
  + Other expenses.
  + Return of capital.
  + Income other than capital gains.
  + Distribution of capital gains.
  + Estimated NAV at FV.
  + Estimated net IRR.
  + Total value/funded.
* **Capital account as of each quarter.** 
  + Name of investor.
  + Ownership.
  + Commitment.
  + Cumulative contributions.
  + Cumulative distributions.
* **Value of fund as of each quarter.** 
  + Represented by value of current portfolio.
  + Current assets.
  + Current liabilities.
  + Amount reserved for follow-on.
  + Available for drawdown.
  + Contingent liabilities (including debt and guarantee).
  + Potential drawdowns for period.
* **Information on the current portfolio as of each quarter, to include.** 
  + Date of initial investment.
  + Geography.
  + Industry.
  + Stage.
  + Equity holding.
  + Cost.
  + FV.
  + Gross IRR.
* **Prior period**
  + Capital account at cost.
  + Capital contribution.
  + Realised gain.
  + Operating expenses net of interest income.
  + Cash distributions.
  + Capital account at cost.
  + Unrealised gains on investments.
  + Capital account at fair value.

Attestations

**In witness** whereof this Agreement has been executed and delivered as a deed on the date first written above.

|  |  |  |
| --- | --- | --- |
|  | Executed as a deed by [General Partner] acting by [                          ] and [                          ] | )  )  ) |
|  |  |  |

|  |  |  |
| --- | --- | --- |
|  | Executed as a deed by [Founder Partner] acting by [                          ] and [                          ] | )  )  ) |
|  |  |  |

|  |  |  |
| --- | --- | --- |
|  | Executed and delivered as a deed by British Business Finance Ltd  acting by its attorneys | )  )  )  ) |
|  | In the presence of:  Witness signature  Witness name  Witness address  Witness occupation | ………………………………………….  Attorney's signature  ………………………………………….  ………………………………………….  ………………………………………….  …………………………………………. |
|  |  |  |
|  | In the presence of:  Witness signature  Witness name  Witness address  Witness occupation | ………………………………………….  Attorney's signature  ………………………………………….  ………………………………………….  ………………………………………….  …………………………………………. |

*[THE FOLLOWING SIGNATURE BLOCKS ARE NOT TO BE REMOVED]*

1. The registered office of the General Partner will need to be an address in the UK, in the part of the UK in which the limited partnership is registered, where any documents delivered can be expected to be seen. [↑](#footnote-ref-1)
2. The registered office of the Founder Partner will need to be an address in the UK, in the part of the UK in which the limited partnership is registered, where any documents delivered can be expected to be seen. [↑](#footnote-ref-2)
3. £1,000 multiplied by carried interest percentage [↑](#footnote-ref-3)
4. £1,000 multiplied by carried interest percentage [↑](#footnote-ref-4)
5. £1,000 multiplied by Preferred Partner's profit share percentage [↑](#footnote-ref-5)
6. £1,000 minus FP's Capital Contribution and Preferred Partner's Capital Contribution [↑](#footnote-ref-6)
7. Term agreed with the Preferred Partner to be inserted. [↑](#footnote-ref-7)
8. i.e. the Preferred Partner's share of profits [↑](#footnote-ref-8)
9. To be included where it has been agreed that such an investor will participate in the fund. [↑](#footnote-ref-9)
10. The principal place of business will need to be an address in the UK, in the part of the UK in which the limited partnership is registered, where any documents delivered can be expected to be seen. [↑](#footnote-ref-10)
11. To be populated following agreement of the form of Deed of Adherence. [↑](#footnote-ref-11)
12. To be included where it has been agreed that such an investor will participate in the fund. [↑](#footnote-ref-12)
13. Provision to be adjusted where it has been agreed that such an investor will participate in the fund. [↑](#footnote-ref-13)
14. This definition will need to be updated in the event the entities in question are limited by guarantee (e.g. "Control" (as defined under Section 1124 of the UK Corporate Tax Act). [↑](#footnote-ref-14)
15. To include other management/advisory parties and agreements, where applicable. [↑](#footnote-ref-15)
16. Any applicable criteria to be confirmed by advisers on Subsidy Control. [↑](#footnote-ref-16)
17. Form of Deed of Adherence to be provided by Manager and approved by BBFL. The Deed of Adherence must include a representation that "the Applicant hereby declares, represents and warrants that it is not a Non-Profit or Public Investor as defined in the Partnership Agreement". [↑](#footnote-ref-17)
18. The reporting template will be provided in due course to an Applicant should it be selected to manage an Enterprise Capital Fund. [↑](#footnote-ref-18)