

DATED

2019

(1) [GENERAL PARTNER]

(2) [MANAGER]

MANAGEMENT SERVICES AGREEMENT
RELATING TO
[SUCCESSOR SEED CAPITAL FUND]

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THIS AGREEMENT is dated

2019

PARTIES

- (1) [●] a company registered in [Northern Ireland] with registered number [●] whose registered office is at [●] (“**General Partner**”); and
- (2) [●] a company registered in [Northern Ireland] with number [●] whose registered office is at [●] (“**Manager**”).

BACKGROUND

- (A) The Partnership has been established to carry on the business of an investor and in particular but without limitation to identify, research, evaluate, negotiate, make, secure, monitor, acquire, hold realise, exchange or distribute investments in companies in accordance with the Investment Policy and to carry out all functions and acts in connection therewith.
- (B) The Manager is an Authorised Person authorised to act as a manager under FSMA.
- (C) The General Partner now wishes to appoint the Manager to act as the manager of the Partnership on the terms of this Agreement and the Manager has agreed to accept the appointment in accordance with the terms of this Agreement.

AGREED TERMS

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this Clause apply in this Agreement.

“**Data Protection Legislation**” means (i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998;

“**Intellectual Property Rights**” means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“**KPIs**” means the key performance indicators set out in Schedule 2;

“**Limited Partners**” means the limited partners of the Partnership from time to time (each being a “**Limited Partner**”);

“**LPA**” means the Agreement dated on or about the date of this Agreement between (1) the General Partner, (2) the Founder Partner and (3) Invest Northern Ireland relating to the Partnership, as amended from time to time;

“Management Fee” means the management fee payable by the General Partner to the Manager in accordance with Clause 4;

“Management Services” means the services to be provided by the Manager under this Agreement (as set out in Schedule 1) and the LPA (including without limitation clause 5.3 of the LPA), and the Manager’s obligations under this Agreement and the LPA, together with any other services which the General Partner (having obtained Limited Partner Consent) agrees from time to time with the Manager;

“Mandatory Terms” means terms that must be included in all Agreements pursuant to which Investments are made as set out in Schedule 3 (as such terms may be amended from time to time with the written consent of Invest NI);

“Partnership” means [●], a limited partnership registered in Northern Ireland under the Act with number [●]; and

“Partnership Funding” means all funds of the Partnership available from time to time to drawdown pursuant to a Drawdown Notice, to be used by the Manager for the making of Investments in accordance with the Investment Policy.

- 1.2 Unless otherwise stated, references to the parties, the Introduction, Clauses and the Schedules are respectively to the parties, the Introduction, the Clauses and the Schedules of and to this Agreement, which are incorporated into and form part of this Agreement.
- 1.3 Any reference to a statutory provision shall include any subordinate legislation and rules made from time to time under or pursuant to that provision or under that subordinate legislation.
- 1.4 Any reference to a statutory provision shall include that provision as from time to time modified or re-enacted or replaced (whether pursuant to the UK leaving the European Union or otherwise) whether before or after the date of this Agreement so far as such modification, re-enactment or replacement applies or is capable of applying to any transactions entered into prior to the date hereof and (so far as liability thereunder may exist or can arise) shall include also any past statutory provision (as from time to time modified and re-enacted) which such provision has directly or indirectly replaced.
- 1.5 Unless the contrary intention appears:
 - 1.5.1 words importing the masculine gender include the feminine;
 - 1.5.2 words importing the feminine gender include the masculine;
 - 1.5.3 words in the singular include the plural and words in the plural include the singular; and
 - 1.5.4 all references to an enactment include an enactment comprised in subordinate legislation whenever made.
- 1.6 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person’s legal and personal representatives, successors and permitted assigns.
- 1.7 A reference to **writing** or **written** excludes faxes but includes email.
- 1.8 Where the words **include(s)**, **including** or **in particular** are used in this Agreement, they are deemed to have the words **without limitation** following them. Where the context permits, the words **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.

1.9 Words that are defined in the LPA shall have the same meaning in this Agreement unless otherwise stated.

2 APPOINTMENT AND MANAGER RESPONSIBILITIES

2.1 The General Partner hereby appoints the Manager to act for it as the manager of the Partnership with full power and authority (subject to the following provisions of this Agreement) to act as discretionary manager of the Partnership and as such to manage the Partnership to the total exclusion of the General Partner and, in consideration for the payment of the Management Fee, the Manager hereby agrees to act as such manager and to carry out the Management Services to the Partnership on the terms and conditions of this Agreement and any duties otherwise imposed upon the General Partner by the LPA.

2.2 The Manager shall from the Effective Date and for the duration of the Term (unless terminated pursuant to Clause 16):

2.2.1 receive applications for Commitments to the Partnership from prospective Investors and (if the Manager thinks fit) appoint such persons as Limited Partners in accordance with the provisions of clause 2 of the LPA;

2.2.2 provide the Management Services to the Partnership and shall allocate sufficient resources to perform the Management Services to enable it to comply with this obligation;

2.2.3 co-operate with the Partnership in all matters relating to the Management Services;

2.2.4 perform all of its duties and responsibilities honestly, fairly and professionally in accordance with the best interests of the Partnership and the best use of the Partnership Funding;

2.2.5 appoint the Named Executives, who shall have authority under this Agreement to contractually bind the Manager on all matters relating to the Management Services and who shall be suitably skilled and experienced to carry out the Management Services;

2.2.6 procure the availability of the Named Executives to perform the Management Services during the term of this Agreement;

2.2.7 inform the Partners if at any time prior to the expiry of this Agreement there is a Named Executive Departure within 10 Business Days of the proposed departure coming to the attention of the Manager and, as soon as reasonably practicable appoint a replacement Named Executive and in any case in accordance with clause 4.5.4 of the LPA; and

2.2.8 ensure that the Named Executives use reasonable skill and care when performing the Management Services.

2.3 The Manager shall at all times comply with the Investment Policy and the terms of this Agreement regarding investment opportunities and shall achieve the KPIs in respect of the performance of the Management Services.

2.4 For the avoidance of doubt the Manager's responsibilities include:

2.4.1 sourcing, evaluating and negotiating of Investment opportunities;

2.4.2 monitoring Investments;

2.4.3 arranging for the safekeeping and administration of Investments;

2.4.4 negotiating Realisations;

- 2.4.5 the commencement, conduct, settlement or defence of litigation relating to the Partnership or to any of the Partnership Assets; and
- 2.4.6 such other acts as are necessary or desirable in the reasonable opinion of the Manager to further benefit the Partnership.
- 2.5** The Manager shall procure that in making the Investments the Portfolio Companies are legally bound by the Mandatory Terms and all reporting requirements deemed necessary by the Manager to allow the Manager to fulfil its reporting obligations pursuant to this Agreement and the LPA.
- 2.6** The Manager shall devote as much of its time and attention to its duties hereunder as shall be required for the proper management of the Partnership and (to the extent that the Manager cannot reasonably be expected to provide the appropriate expertise in-house) shall carry on and manage the same with the assistance from time to time of such other agents of the Manager as the Manager shall deem necessary and such delegation may be on such terms as the Manager thinks fit but any such delegation is subject to the following:
 - 2.6.1 the Manager will not delegate a function which involves the exercise of its discretionary management powers;
 - 2.6.2 the Manager shall remain liable for the performance of its obligations by any such agents;
 - 2.6.3 any such delegation shall be in accordance with Clause 23; and
 - 2.6.4 the Manager shall comply with the terms of the LPA governing the procurement, selection and appointment of such agents.

The Manager will act in good faith and due diligence in its choice and use of such agents. Any such delegation shall be at the cost of the Manager (or the General Partner, if the Manager so directs) and not the Partnership.

- 2.7** The Manager shall use all reasonable endeavours to ensure that all persons to whom it delegates any of its functions, powers, discretions, privileges and duties hereunder shall, insofar as applicable, comply with the provisions of this Agreement and the LPA.
- 2.8** The Manager undertakes to the General Partner and the Partnership that on a winding up of the Partnership in circumstances under which the General Partner is not to be appointed as the liquidating trustee pursuant to the terms of the LPA, it will use all reasonable endeavours to assist the liquidating trustee to find a purchaser, obtain a valuation and effect the sale of any remaining Investment held by the Partnership.
- 2.9** The Manager undertakes that throughout the Term it shall continue to be an Authorised Person.

3 LPA

The terms of and provisions of the LPA relating to the rights, authorities and powers of the Manager and duties and obligations of the Manager or the General Partner to procure any actions by, or obligations of, the Manager are hereby incorporated by reference and, in respect of the duties and obligations of the Manager and those duties and obligations of the Manager to be procured by the General Partner pursuant to the LPA, the Manager confirms that it will carry out such duties and obligations. In the event that any of the provisions of this Agreement relating to the rights, authorities, powers, duties and obligations of the Manager (including the duties and obligations of the Manager to be procured by the General Partner) conflict with the LPA, the terms of the LPA shall prevail.

4 MANAGER'S FEE

- 4.1** Subject to the provisions of Clause 4.2 below, in consideration of the provision of the Management Services by the Manager, the Manager confirms that it has agreed with the General Partner that, as remuneration for its services in acting as manager of the Partnership, the Manager shall be entitled to be paid by the General Partner such fee as may from time to time be agreed between the General Partner and the Manager not exceeding the General Partner's Share. Such fee shall be remitted by the General Partner, into such account as the Manager shall specify to the General Partner, as soon as practicable after receipt of the General Partner's Share from the Partnership. The Manager confirms that it shall have no claim against or recourse to the Partnership for the Manager's remuneration.
- 4.2** Without prejudice to any other right or remedy it may have, the General Partner reserves the right to set off any amount owing at any time to it by the Manager against any amount payable by the General Partner to the Manager under this Agreement.

5 ADMINISTRATION AND PARTNERSHIP ASSETS

- 5.1** The Manager will ensure that any cheques, bankers drafts or other payment instructions for income or other distributions payable to the Partnership or for monies in payment for Investments repaid or disposed of for the account of the Partnership (or in payment for any other sum payable to the Partnership) which are received by the Manager are paid together with any interest accrued thereon as soon as practicable to a bank account of the Partnership.
- 5.2** Drawdown of monies for Investments shall be effected by the Manager issuing a Drawdown Notice in accordance with clause 4.1.2 of the LPA. The Manager will open and operate a separate bank account for all monies drawn down from the Partnership to be used for the purposes of Investments. All Drawdown Notices shall set out the details specified in schedule 1 of the LPA.
- 5.3** Upon execution of an agreement and other legal documentation relevant to the making of an Investment by the Partnership, cheques or bankers drafts will be drawn by or to the order of the Partnership in respect of such Investment and (on completion of such agreement or settlement of such transaction) delivered to the persons respectively entitled thereto. For the avoidance of doubt, no cheques, bankers drafts or other payment instructions issued in connection with completion of any agreement, settlement of any transaction or payment of any distribution by the Partnership shall be drawn or endorsed in favour of the Manager.
- 5.4** Records will be maintained separately identifying Investments of the Partnership from those of other persons.
- 5.5** The Manager shall perform counts and reconciliations and keep records as required by the applicable FCA Rules.
- 5.6** The Manager may not hold a lien or security interest over Investments.

6 QUALITY OF MANAGEMENT SERVICES

- 6.1** The Manager warrants to the Partnership that:
- 6.1.1** the Manager will perform the Management Services with reasonable care and skill and in accordance with generally recognised commercial practices and standards in the industry for similar services;
- 6.1.2** the Management Services will conform with all descriptions and specifications provided to the Partnership by the Manager in the Bidding Materials; and

6.1.3 the Management Services will be provided in accordance with all applicable legislation from time to time in force, and the Manager will inform the Partnership as soon as it becomes aware of any changes in any legislation that is likely to have a material effect on the provision of the Management Services by the Manager.

6.2 The provision of this Clause 6 shall survive any performance, acceptance or payment pursuant to this Agreement and shall extend to any substituted or remedial services provided by the Manager.

7 INTELLECTUAL PROPERTY RIGHTS

The Manager is (subject to the terms of any licence upon which it uses the same) the owner of all Intellectual Property Rights and all other rights generated by it in the provision of the Management Services.

8 INDEMNITY AND INSURANCE

8.1 The Manager shall indemnify and hold the Partners (together the “**Indemnified Persons**”) harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, any of the Indemnified Persons as a result of or in connection with:

8.1.1 any claim made against any of the Indemnified Persons in respect of any liability, loss, damage, injury, cost or expense sustained by it/them, its/their employees or agents to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the provision of the Management Services by the Manager as a consequence of its fraud, wilful default, negligence, or a material breach or negligent performance or failure or delay in performance of this Agreement by the Manager, its employees or agents; or

8.1.2 any material breach of any applicable provision of FSMA or the FCA Rules in its conduct in relation to the Partnership, or the Manager’s failure to comply with any duty to the Partnership under the regulatory system (as defined in the glossary to the FCA Rules); or

8.1.3 the Manager holding itself out, advising or representing to any third party that it has authority to act as agent, in the name of or on behalf of or otherwise bind any of the Indemnified Persons in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

8.2 In addition to the provisions of clause 5.14 of the LPA but without limitation to its liability pursuant to such clause, the Manager shall be required to have in place such insurance policies as are normal for a management services company with a reputable insurance company covering, without limitation, all the obligations to be imposed upon the Manager under this Agreement (including, without limitation, public liability and employer’s liability) and shall provide details of such insurance to the Partnership when requested to do so. The Manager shall be required to undertake not to do or permit anything to be done which may render any policy or policies of insurance void or voidable.

8.3 The provisions of this Clause 8 shall survive termination of this Agreement, however arising.

9 CUSTODY OF INVESTMENTS

9.1 The Manager shall appoint an Authorised Person permitted to do so under FSMA (who may be an associate of the Manager) to act as custodian of the Partnership’s Investments (“**Custodian**”).

9.2 The appointment of the Custodian shall be made in accordance with the FCA Handbook, on such terms as the Manager thinks appropriate (which may include granting the Custodian power to appoint a sub-custodian).

9.3 The Manager shall be entitled to terminate the appointment of the Custodian at any time in accordance with the terms of any agreement with the Custodian in which case the Manager may appoint a replacement Custodian in accordance with Clause 9.2.

10 DISTRIBUTIONS

The Manager shall ensure that distributions of cash and distributions in kind are made to the Partners in accordance with clause 10 of the LPA and, on the winding up of the Partnership, clause 13.5 of the LPA.

11 CONFIDENTIALITY

11.1 Save to the extent required to fulfil its obligations under this Agreement and the LPA, or as required under applicable law or regulation or in accordance with the remaining provisions of this Clause 11, the Manager shall not during the continuance of this Agreement or after its termination disclose to any person, firm or company whatsoever (unless ordered to do so by a court of competent jurisdiction or by any regulatory authority) use or disclose any information relating to the business, investments, finances or other matters of a confidential nature of the Partnership, the Partners, the Partnership Funding, a Portfolio Company, Investment or potential Investment or Portfolio Company of which it may in the course of its duties under this Agreement or otherwise have become possessed and the Manager shall use all reasonable endeavours to prevent any such disclosure.

11.2 The obligations provided in Clause 11.1 shall not apply to any such information which:

11.2.1 is part of the public knowledge or literature and readily accessible at the date of this Agreement;

11.2.2 becomes part of the public knowledge or literature and readily accessible by publication; or

11.2.3 is possessed by either party prior to the receipt thereof from the other party.

11.3 Notwithstanding Clause 11.1, the Manager shall be entitled to disclose information received by it concerning the business or offering of the Partnership to:

11.3.1 its shareholders; and/or

11.3.2 its bona fide advisors and auditors,

provided always that such persons are bound by obligations of confidentiality in favour of the Partnership that are no less onerous than those to which the Manager is subject pursuant to this Agreement.

12 COMPLIANCE WITH LAWS AND REGULATIONS

12.1 The Manager shall provide the Management Services in accordance with the terms of this Agreement and venture capital industry practice and in compliance with the FSMA.

12.2 This Clause 12 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

- 12.3** The parties acknowledge that for the purposes of the Data Protection Legislation, the Manager is the data Processor and General Partner is the data Controller (where “**Processor**” and “**Controller**” have the meanings set out in the Data Protection Legislation). For so long as required by this Agreement, the Manager may from time to time process the Personal Data (where Personal Data has the meaning set out in the Data Protection Legislation) of individuals connected to Investments (the nature and purpose of such processing being as requested by clause 14 of the LPA and for the purposes of identity verification), including those individuals’ names, contact details, dates of birth, identification document details and national insurance information.
- 12.4** Without prejudice to the generality of Clause 12.2, the Manager shall, in relation to any Personal Data processed in connection with the performance by the Manager of its obligations under this Agreement:
- 12.4.1 process that Personal Data only on the written instructions of the General Partner unless the Manager is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Manager to process Personal Data (“**Applicable Laws**”). Where the Manager is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Manager shall promptly notify the General Partner of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Manager from so notifying the General Partner;
- 12.4.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
- 12.4.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
- 12.4.4 not transfer any Personal Data outside of the European Economic Area unless the following conditions are fulfilled:
- (a) the Manager has provided appropriate safeguards in relation to the transfer;
 - (b) the data subject has enforceable rights and effective legal remedies;
 - (c) the Manager complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (d) the Manager complies with reasonable instructions notified to it in advance by the General Partner with respect to such processing of the Personal Data;
- 12.4.5 assist the General Partner, at the Manager’s cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 12.4.6 notify the General Partner without undue delay (and in any event within 24 hours) in the event that it suspects or becomes aware of any Personal Data breach or breach of any Data Protection Legislation by the Manager in connection with the Agreement, and shall, at the Manager’s cost: (i) investigate the incident and provide the General Partner, on an ongoing basis, with detailed information about the breach; and (ii) take all reasonable steps to mitigate the effects of the breach and to minimise any damage resulting from the breach; and (iii) co-operate with General

Partner to provide information in connection with the breach or any notice required to be sent out to any third party in connection with the breach;

- 12.4.7 at the written direction of the General Partner, delete or return Personal Data and copies thereof to the General Partner (or its nominee) on expiry or termination of the Agreement unless required by Applicable Law to store the Personal Data; and
- 12.4.8 maintain complete and accurate records and information to demonstrate its compliance with this Clause 12 and allow for audits by the General Partner or its designated auditor.
- 12.5** The Manager shall not without the prior written consent of the General Partner appoint any third-party processor to carry out processing activities in respect of the Personal Data under the Agreement unless otherwise permitted by Clause 23. As one of any other conditions of such consent, the Manager shall confirm that it has entered into with such third-party processor a written agreement incorporating terms which are substantially similar to those set out in this Clause 12, and, as between the General Partner and the Manager, the Manager will remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this Clause 12.

13 REPORTS AND MONITORING

- 13.1** The Manager shall report to the Partners on a quarterly and annual basis in accordance with clause 14.1 of the LPA and shall have an evaluation meeting with the Board of Advisors on a six monthly basis to discuss the reports and its performance against KPIs.
- 13.2** The Manager shall co-operate fully with any evaluation of the Manager's performance pursuant to clause 24 of the LPA.

14 CONFLICTS OF INTEREST

- 14.1** The Manager shall not provide services similar to those it is providing to the Partnership in accordance with the terms of this Agreement without the prior written consent of the Partnership (such consent not to be unreasonably withheld or delayed). No member, director, partner or employee of the Manager or any of its Associates may invest or act as a director of a Portfolio Company.
- 14.2** The Manager shall maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps to prevent conflicts of interest from constituting or giving rise to actual or potential damage to the interests of the Partnership.
- 14.3** In accordance with the FCA Rules, the Manager confirms that it has a written conflicts of interest policy which sets out the types of actual or potential conflicts of interest affecting the Manager's business and provides details of how these conflicts are managed.
- 14.4** If a conflict of interest arises and the Manager's conflicts of interest policy is not sufficient to ensure with reasonable confidence that risks of damage to the interests of the Partnership will be prevented in relation to that conflict, the Manager shall provide specific details of such conflicts of interest and the Manager's proposed actions to the Partnership's Board of Advisors in a separate document within 10 Business Days.
- 14.5** The Partnership requests that the Manager shall, in each case of which it is aware that a proposed transaction by the Partnership presents an actual or potential conflict of interest between the interests of the Manager, its Associates or their other clients and the interests of the Partnership, disclose the same promptly to the Limited Partners.

14.6 Where a transaction is effected by the Manager and there is a potential conflict of interest with the Manager's duty to the Partnership of which the individuals responsible for the performance of the Manager's services to the Partnership under this Agreement are aware then the Manager will use its best endeavours to ensure that the terms of the relevant transaction are no less favourable to the Partnership than if the conflict had not existed.

15 INSTRUCTIONS AND COMPLAINTS

15.1 Any specific instructions, directions or other communication by or on behalf of the Partnership to the Manager are to be given to the Named Executives and may be either oral or in writing under the hand of the General Partner or any Limited Partner of the Partnership. The Manager shall accept and comply with any instructions or other communications from the Partnership which are within the terms of this Agreement.

15.2 Any specific instructions, directions or other communication by or on behalf of the Manager are to be given to the Partners and may be either oral or in writing under the hand of the Named Executives.

15.3 Any complaint about the performance of the Named Executives under this Agreement should be directed, in the first instance, to a director of the Manager. A copy of the Manager's complaint handling procedures is to be provided to the Partnership on request.

16 TERMINATION

16.1 Subject to Clause 16.2, this Agreement shall terminate automatically on the expiry of the Term.

16.2 Without prejudice to any other rights or remedies which the parties may have, the General Partner shall terminate this Agreement without liability to the Manager immediately on giving notice to the Manager if:

16.2.1 the Manager fails 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 (if required to be so authorised to carry out its duties hereunder); or

16.2.2 the Manager commits a material breach of any of the terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within 20 Business Days of the Manager being notified in writing of the breach; or

16.2.3 the Manager repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement; or

16.2.4 the Manager suspends, or threatens to suspend, payment of its debts, is unable to pay its debts as they fall due, admits inability to pay its debts or is deemed unable to pay its debts within the meaning of Article 103 of the Insolvency (Northern Ireland) Order 1989;

16.2.5 the Manager commences negotiations with all, or any class of, its creditors with a view to rescheduling any of its debts, or makes a proposal for, or enters into any compromise or arrangement with, its creditors other than for the sole purpose of a scheme for a solvent amalgamation of the Manager with one or more other companies, or the solvent reconstruction of the Manager; or

16.2.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Manager other than for the sole purpose of a scheme for a solvent amalgamation of the Manager with one or more other companies or the solvent reconstruction of the Manager; or

- 16.2.7 an application is made to court, or an order is made, for the appointment of an administrator, a notice of intention to appoint an administrator is given, or an administrator is appointed over the Manager; or
 - 16.2.8 a floating charge holder over the assets of the Manager has become entitled to appoint, or has appointed, an administrative receiver; or
 - 16.2.9 a person becomes entitled to appoint a receiver over the assets of the Manager, or a receiver is appointed over the assets of the Manager; or
 - 16.2.10 a creditor or encumbrancer of the Manager attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
 - 16.2.11 any event occurs, or proceeding is taken, with respect to the Manager in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause 16.2.4 to Clause 16.2.10 (inclusive); or
 - 16.2.12 the Manager suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
 - 16.2.13 there is a Change of Control of the Manager; or
 - 16.2.14 the Partnership terminates; or
 - 16.2.15 the General Partner is removed or withdrawn or resigns as the general partner of the Partnership, unless the General Partner is replaced by an Associate of the General Partner; or
 - 16.2.16 the General Partner is requested by the Limited Partners (acting by a Limited Partners' Consent) to terminate the Management Agreement pursuant to clause 4.6.2 of the LPA; or
 - 16.2.17 a decision is taken by the General Partner, acting on behalf of the Partnership, to terminate the appointment of the Manager.
- 16.3** On termination of this Agreement for any reason, the Manager shall immediately deliver to the Partnership all information and records regarding the Investments, Portfolio Companies and potential Investments that the Partnership or any other third party the Partnership may appoint to provide management services in respect of the Partnership Funding will require to manage and administer the Investments.
- 16.4** If the Manager fails to fulfil its obligations under Clause 16.3, then any of the Partners on behalf of the Partnership may enter the Manager's premises and take possession of any items which should have been returned to the Partnership. Until they have been returned or repossessed, the Manager shall be solely responsible for their safe keeping.
- 16.5** On termination of this Agreement (however arising) the accrued rights and liabilities of the parties as at termination, and the following clauses, shall survive and continue in full force and effect:
- 16.5.1 Clause 8;
 - 16.5.2 Clause 11;
 - 16.5.3 Clause 16;

16.5.4 Clause 17;

16.5.5 Clause 28; and

16.5.6 Clauses 14.2, 18, 19, 20, 23 and 37 of the LPA.

17 REMEDIES

17.1 Without prejudice to any other rights or remedies afforded to the Partnership, the Partnership Contact or the General Partner in this Agreement, if any Management Services are not supplied in accordance with, or the Manager fails to comply with, any terms of this Agreement, the Partnership shall be entitled (without prejudice to any other right or remedy) to exercise any one or more of the following rights or remedies:

17.1.1 to require the Manager, without charge to the Partnership, to carry out such additional work as is necessary to correct the Manager's failure; and/or

17.1.2 in any case, to claim such damages as it may have sustained in connection with the Manager's breach (or breaches) of this Agreement.

17.2 The Manager shall make any payments due to the General Partner (whether overpayments made by the Manager or otherwise) without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Manager has a valid court order requiring an amount equal to such deduction to be paid by the General Partner to the Manager.

17.3 Wherever under this Agreement any sum of money is recoverable from or payable by the Manager (including any sum which the Manager is liable to pay to the General Partner in respect of any breach of this Agreement), that sum may be deducted unilaterally by the General Partner from any sum then due, or which at any later time may become due, to the Manager under this Agreement. The Manager will not be entitled to assert any credit, set-off or counterclaim against the General Partner in order to justify withholding payment of any such amount in whole or in part.

17.4 Any overpayment by either party, whether of the Management Fee or of VAT or otherwise, shall be a sum of money recoverable by the party who made the overpayment from the party in receipt of the overpayment.

17.5 All payment due shall be made within a reasonable time unless otherwise specified in this Agreement, in cleared funds, to such bank or building society account as the recipient party may from time to time direct.

17.6 Except as otherwise expressly provided by this Agreement, all remedies available to either party for breach of this Agreement (whether under this Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy will not be deemed an election of such remedy to the exclusion of other remedies.

18 FORCE MAJEURE

18.1 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control ("**Force Majeure**"), and in such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed, provided that if the period of delay or non-performance continues for 3 months, the party not affected by such events, circumstances or causes may terminate this Agreement by giving 10 Business Days' written notice to the other party.

18.2 Any failure or delay by the Manager in performing its obligations under this Agreement which results from any failure or delay by an agent, sub-contractor or supplier shall be regarded as due to Force Majeure only if that agent, sub-contractor or supplier is itself impeded by Force Majeure from complying with an obligation to the Manager.

18.3 If either party becomes aware of Force Majeure which gives rise to, or is likely to give rise to, any failure or delay on its part as described in Clause 18.1 it shall immediately notify the other by the most expeditious method then available and shall inform the other of the period for which it is estimated that such failure or delay shall continue.

19 VARIATION

19.1 Subject to Clause 19.2, no variation of this Agreement shall be valid unless it is in writing and signed by, or on behalf of, each of the parties.

19.2 Each party confirms that such amendments shall be made to this Agreement as may be necessary to comply with the FCA Rules or such other regulatory regime to which the Manager is subject.

19.3 Any variations to the LPA from time to time shall be incorporated into this Agreement to the extent that such variations apply to the exercise of powers and authorities and management duties and obligations ascribed to the manager of the Partnership under the LPA.

20 WAIVER

20.1 Failure to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law shall not constitute a waiver of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy.

20.2 No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of that right or remedy.

20.3 A waiver (which may be given subject to conditions) of any right or remedy provided under this Agreement or by law shall only be effective if it is in writing. It shall apply only to the party to whom it is addressed and for the specific circumstances for which it is given. It shall not prevent the party who has given the waiver from subsequently relying on the right or remedy in other circumstances.

20.4 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

21 SEVERANCE

21.1 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.

21.2 If a provision of this Agreement (or part of any provision) is found illegal, invalid or unenforceable, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

22 ENTIRE AGREEMENT

- 22.1** This Agreement, the LPA and all the documents referred therein constitute the whole Agreement between the parties and supersedes any previous arrangement, understanding or Agreement between them relating to the subject matter of this Agreement.
- 22.2** Each party acknowledges that, in entering into this Agreement, it does not rely on any statement, representation, assurance or warranty ("**Representation**") of any person (whether a party to this Agreement or not) other than as expressly set out in this Agreement, the LPA or the Bidding Materials or any Side Letters entered into between the Manager and any of the Limited Partners. Each party agrees that the only remedies available to it arising out of or in connection with a Representation shall be for breach of contract.
- 22.3** Nothing in this Clause shall limit or exclude any liability for fraud.

23 ASSIGNMENT AND SUBCONTRACTING

- 23.1** Neither party may, without the prior written consent of the other, assign, transfer, charge, subcontract or delegate (except as provided herein) or deal in any other manner with this Agreement or any of its rights or obligations under it PROVIDED THAT any Partner may assign or transfer its interest under this Agreement as to any transferee to whom its interest in the Partnership is transferred in accordance with the LPA.
- 23.2** If any part of this Agreement is subcontracted by the Manager, the Manager shall ensure that all sums due by it to the subcontractor are paid within a specified period not exceeding 30 days from receipt of a valid invoice.
- 23.3** Where the Manager has subcontracted any part of this Agreement pursuant to this Clause 23, the Manager shall procure that its subcontractors, and any subcontractors of subcontractors, provide the same rights to Invest NI and the Reporting Bodies as set out in clause 14.2 of the LPA.

24 NO PARTNERSHIP OR AGENCY

Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties.

25 RIGHTS OF THIRD PARTIES

- 25.1** Except for any obligations of the Manager for the benefit of the Partnership, any of the Partners or Invest NI as expressly set out in this Agreement, or for any parties otherwise expressly referenced herein, nothing in this Agreement confers any rights on any person (other than the parties hereto) pursuant to the Contracts (Rights of Third Parties) Act 1999. The parties may rescind or vary this Agreement without the consent of any other person on whom this Agreement may confer rights. No such other person may, without the prior written consent of the Manager, assign, transfer, charge or deal in any other manner with their rights under this Agreement.
- 25.2** In addition to the obligations of the Manager expressly set out in this Agreement, the Limited Partners may enforce and rely on any clause or provision contained in the LPA that, by virtue of Clause 3 of this Agreement, is incorporated into this Agreement and purports to confer rights or benefits on the Limited Partners that the obligations of or to be delivered by the Manager to the same extent as if they were a party to this Agreement.

26 NOTICES

- 26.1** A notice given to a party under this Agreement:
- 26.1.1 shall be in writing in English;

26.1.2 shall be signed by or on behalf of the party giving it;

26.1.3 shall be sent for the attention of the person, at the address specified in this Clause (or to such other address or person as that party may notify to the other, in accordance with the provisions of this Clause); and

26.1.4 shall be:

- (a) delivered personally; or
- (b) sent by commercial courier; or
- (c) sent by pre-paid first-class post or recorded delivery; or
- (d) sent by airmail requiring signature on delivery; or
- (e) sent by email.

26.2 The addresses for service of a notice are as follows:

26.2.1 **Partnership:**

- (a) address: [●];
- (b) for the attention of: [●];
- (c) email address: [●];

26.2.2 **The Manager:**

- (a) address: [●];
- (b) for the attention of: [●];
- (c) email address: [●];

or in each case, as otherwise notified to be parties pursuant to this Clause.

26.3 If a notice has been properly sent or delivered in accordance with this Clause, it will be deemed to have been received as follows:

26.3.1 if delivered personally, at the time of delivery; or

26.3.2 if delivered by commercial courier, at the time of signature of the courier's receipt; or

26.3.3 if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second day after posting; or

26.3.4 if sent by airmail, five days from the date of posting; or

26.3.5 if sent by email, at 9.00 am on the first Business Day after sending.

26.4 For the purposes of this Clause:

26.4.1 all times are to be read as local time in the place of deemed receipt; and

26.4.2 if deemed receipt under this Clause is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of receipt), the notice is deemed to have been received when business next starts in the place of receipt.

- 26.5** To prove delivery, it is sufficient to prove that if sent by pre-paid first-class post, the envelope containing the notice was properly addressed and posted and, if sent by email, evidence that the notice was sent to the email address specified herein.
- 26.6** The provisions of this Clause 26 shall not apply to the service of any process in any legal action or proceedings.
- 26.7** A notice required to be given under this Agreement shall not be validly served if sent by fax.

27 COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall constitute an original and when taken together shall constitute one and the same Agreement.

28 GOVERNING LAW AND JURISDICTION

- 28.1** This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of Northern Ireland.
- 28.2** The parties irrevocably agree that the courts of Northern Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

This Agreement has been entered into as a deed on the date stated at the beginning of it.

SCHEDULE 1

MANAGEMENT SERVICES

The Manager shall have full power and authority, on behalf of the Partnership subject always to any relevant restrictions and provisions of this Agreement and the LPA and consistent with the Investment Policy and so as to bind the Partnership:

1. to manage the Partnership Assets in compliance with the Investment Policy;
2. to carry out the Investment Policy of the Partnership in accordance with the terms of the LPA and in doing so to evaluate, undertake reasonable and proportionate commercial and legal due diligence in respect of and negotiate Investment opportunities, to require the Partnership (either on its own account or in a syndicate with other investors) to (or to agree to) make, realise or dispose of Investments for the account of the Partnership and enter into all agreements and deeds necessary or desirable for the foregoing purposes (“**Investment Agreements**”);
3. to monitor the performance of Portfolio Companies and monitor their compliance with the terms of the Investment Agreements, and to exercise all rights conferred upon the Partnership under the terms of any Investment Agreement or otherwise in respect of a Target Company and to liaise with, consult, assist or procure assistance to be given to Portfolio Company and generally to take any action the Manager considers appropriate for the protection of the Partnership Assets including without limitation by enforcing the provisions of the Investment Agreements (subject to Paragraph 9 below);
4. at the expense of the Manager to provide or procure the provision of office facilities and office and executive staff and office equipment to facilitate the carrying on of the business of the Partnership;
5. to open accounts with banks, for and in the name of the Partnership in accordance with the LPA (and in such banks as specified by the Partnership on or before the date of this Agreement), maintain such accounts, give payment and other instructions to banks in respect of such account and to pay into such accounts Loans made by Investors, income, dividends, interest payments, share of profits or other sums arising from or on the repayment or realisation of Investments and any other income of the Partnership;
6. to enter into, make and perform such contracts, agreements and other undertakings, on behalf of the Partnership in connection with Investments or proposed Investments and to do all such other acts as it may deem necessary and advisable for or as may be incidental to the conduct of the business of the Partnership;
7. to disburse out of the funds of the Partnership:
 - 7.1 professional fees, commissions and expenses payable by the Partnership in accordance with the terms of the LPA in connection with the making of or realisation of Investments to the extent not recoverable from Portfolio Companies; and
 - 7.2 such other fees and expenses are payable by the Partnership in accordance with the terms of the LPA;
8. to grant and make payments in respect of indemnities in accordance with this Agreement and the LPA;
9. 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 Limited Partners' Consent (including any litigation referred to in Clause 5.10.2 of the LPA);

- 10 to maintain the Partnership's records and books of account (such books of account to be maintained in Pounds Sterling) at the Partnership's principal place of business in accordance with the requirements of the LPA and in accordance with the requirements of any funder to the Partnership and to allow any Partner and its representatives and funders access to such records and books of account at any time for the purpose of inspecting the same;
- 11 to make distributions to the Partners in accordance with the terms of this Agreement;
- 12 to provide quarterly and annual reports to the Partners in accordance with the provisions of Clause 14.1 of the LPA;
- 13 to engage such attorneys, agents, lawyers, accountants or other advisers as it may deem necessary or advisable in relation to the affairs of the Partnership (including making the initial appointment of the Auditors) and including, without limitation, any Associate of the Manager to perform all or any of the activities set forth in this Schedule 1 PROVIDED THAT the remuneration and expenses of any such persons shall be paid by the Manager unless payable by the Partnership under the provisions of the LPA and save that when payments are made to any Associate they shall be on demonstrably an arm's length basis and after the Associate has won the arrangement in an openly competitive procurement process;
- 14 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;
- 15 generally to communicate with the Partners and to report to the Partners at such times as it shall think fit and when requested by the Partners so to do and to represent the Partnership in all things;
- 16 pending the application of moneys drawn down pursuant to the LPA in making Investments to place amounts drawn down or realised (as the case may be) in such deposit accounts with such bank as the Manager may agree with the Partnership from time to time;
- 17 to act as custodian of all securities, stocks, shares, debentures and other marketable instruments delivered to or held by it for the Partnership;
- 18 to effect such insurances as may be appropriate or desirable for the purposes of the Partnership or as required by the Partnership;
- 19 subject to the terms of the LPA, to act as liquidation agent of the Partnership; and
- 20 to do all or any other acts as are required of the Manager by this Agreement and the LPA or as are necessary or desirable in the opinion of the Manager and the Partnership in furtherance of the business of the Partnership, Investment Policy, foregoing powers and consistent with the terms of this Agreement.

SCHEDULE 2

KPIs

The Manager shall build a balanced and diversified portfolio with the following KPIs:

1. To complete 5 to 12 Investments in year 1 of the Investment Period and thereafter 8 to 14 Investments per annum for the remainder of the Investment period with an aggregate portfolio size, at the end of each year, of at least:

YEAR	MINIMUM AGGREGATE PORTFOLIO SIZE
1.	5
2.	15
3.	26
4.	38
5.	50

2. To operate in the deal size range of a minimum of £50,000 and a maximum of £750,000 capped at £2,000,000 in any one Portfolio Company.
3. To make 50 to 60 Investments over the first five years of the Term.
4. To make Investments of at least £18,000,000 in aggregate during the Investment Period.
5. To make Investments in at least 15% of Portfolio Companies which are spin-outs and/or spin-ins from NI universities.
6. To make Investments only within the Investment Area.
7. The failure rate of Investments (such failure as determined by the passing of a resolution approving the winding up or administration of a Portfolio Company) of no more than 6 failures by the fourth anniversary of the Term and to be less than 50% of the aggregate Investments by the eighth anniversary.
8. Investments must have aggregate deal level leverage of at least £6,000,000 by the end of the Investment Period and of at least £15,000,000 by the eighth anniversary of the Term.

SCHEDULE 3

MANDATORY TERMS

1 INSPECTION AND INFORMATION RIGHTS

- 1.1 In consideration for the Partnership's investment in the Company and notwithstanding any other provision contained in this Agreement, the provisions of this Clause [1] shall apply for the benefit of those persons mentioned therein. Except where the context otherwise requires, each reference below to the "Company" shall take all necessary actions to procure that each Group Company complies with the provisions of this Clause [1].
- 1.2 The Company shall permit Invest Northern Ireland, the Department for the Economy ("DFE") and its agents, the Northern Ireland Audit Office, the Commission of the European Union, the European Court of Auditors or any of their successor bodies or such other bodies to which Invest Northern Ireland is required to report or is accountable (together, "Reporting Bodies") upon giving reasonable notice to enter the business premises and any other premises of the Company during normal working hours (unless a statutory or regulatory obligation requires entry outside of these hours) to inspect any asset and any accounting or other record in respect of any Partnership Funding which has been paid or may become payable under the terms of this Agreement and to review and, if applicable, copy same or to comply with any statutory or regulatory obligation of Invest Northern Ireland or any of the Reporting Bodies or their respective agents.
- 1.3 The Company shall deliver to the Partnership information which will include:
- 1.3.1 a copy of the [monthly/quarterly] management accounts of the Company [including profit and loss account, cashflow statement, balance sheet and a commentary on performance against budget together with an explanation of any variance within [four weeks] of the end of each month/quarter;
- 1.3.2 an annual report within [4 weeks of each anniversary of this Agreement] in a form satisfactory to the Partnership giving details of the number of employees of the Company and their gross salary employed by the Company in the preceding year;
- 1.3.3 such additional financial information as the Partnership may from time to time reasonably require.

To be inserted into definitions section of the relevant agreement:

"Partnership Funding" Any investment (whether for consideration in case or securities or assets or otherwise) by Partnership into the Company including but not limited to investments made upon and after the date of this Agreement by way of subscription for shares, debentures, loan stock or other securities of the Company and loans made to the Company (whether secured or unsecured);

2 DISCLOSURE, PUBLICITY, CONFIDENTIALITY

Notwithstanding any other provision of this Agreement:

- 2.1 The Partnership and its Limited Partners and General Partner shall be entitled to publish details of the amounts and types of the Partnership Funding (including without limitation the name of the Company, the amount and type of each investment and the Company's sectors of activity) at such times and in such manner as they may decide.
- 2.2 The Company shall render to the Partnership and its Limited Partners and General Partner such assistance as they may reasonably request in connection with any publicity which they may deem appropriate in respect of the Company and the Partnership Funding and shall procure that

promotional material relating to the Company includes a statement in terms of or to the effect that the Company is supported by INI and/or by a major contribution by the European Regional Development Fund (“ERDF”).

- 2.3 The Company acknowledges that the Partnership and certain of its Limited Partners are subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (as amended from time to time) (“FOI Legislation”) and the Client agrees to assist and co-operate with the Partnership and its Limited Partners and General Partner to enable them to comply with such obligations under the FOI Legislation. The Company acknowledges that the Partnership and its Limited Partners may be obliged under the FOI Legislation to disclose confidential information without consulting or obtaining consent from the Company.
- 2.4 The Partnership and its Limited Partners and General Partner shall be entitled to disclose details of the Company’s business, investments, finances or other matters of a confidential nature to other government agencies and departments, and bodies engaged in economic development (subject to the terms of the Data Protection Legislation and any other applicable legal restrictions which prevent the disclosure of such information), provided that such other government agencies, departments and bodies engaged in economic development are subject to obligations of confidence equivalent to or greater than those applicable to the Partnership pursuant to this Agreement.
- 2.5 The Partnership and its Limited Partners and General Partner may include any information which it receives in relation to the Company in a database of economic, financial and statistical information and may publish or disseminate reports derived from such database provided that such reports do not specifically identify the Company.
- 2.6 The Partnership and its Limited Partners and General Partner shall be entitled to disclose information on the Company to their professional advisers who are subject to obligations of confidence or to consultants working on their behalf provided such disclosure is made for the specific purpose for which the consultants are engaged.
- 2.7 Subject to Clauses 2.1 to 2.6 above the Partnership and its Limited Partners and General Partner shall treat all information received from the Company in pursuance of this Agreement as confidential and shall not disclose such information to any third party without the consent of the Company, such consent not be unreasonably withheld or delayed, except as may be required by law (including without limitation FOI Legislation) or for the purpose of preventing or detecting crime or for the purposes of any parliamentary or governmental enquiry into the activities of the Partnership and its Limited Partners and General Partner.

To be inserted into definitions section of the relevant agreement:

“**Data Protection Legislation**” means: (i) unless and until the GDPR (as defined below) is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) (“**GDPR**”) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 2018.

3 **EQUALITY**

The Company shall comply with the relevant statutory and regulatory provisions from time to time in force in Northern Ireland imposing obligations on the Company, its offices and Employees in relation to discrimination on any ground, whether that of religious belief, political opinion, race or ethnic origin, marital status, age, sexual orientation, gender, disability, full or part time status and having dependents, including without limitation the Non-Discrimination Legislation.

To be inserted into definitions section of the relevant agreement:

“Non-Discrimination Legislation” means all Northern Ireland legislation from time to time in force regarding non-discrimination, including without limitation section 75 of the Northern Ireland Act 1998, the Fair Employment and Treatment (Northern Ireland) Order 1998, the Sex Discrimination (Northern Ireland) Order 1976, the Equal Pay Act (Northern Ireland) 1970, the Disability Discrimination Act (Northern Ireland) 1995, the Race Relations (Northern Ireland) Order 1997, the Equality (Northern Ireland) Order 2000, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000, the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002, the Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003 and the Employment Equality (Age) Regulations (Northern Ireland) 2006.

4 **NON-DISCRIMINATION WARRANTY**

4.1 The Company hereby warrants and represents that neither it, nor its officers, save as has already been disclosed in writing to the Partnership have been found by a Tribunal or other Court of competent jurisdiction to have breached any of the provisions of the Non-Discrimination Legislation and has not been the subject of a successful claim pursuant to the Non-Discrimination Legislation.

5 **DOCUMENTATION**

The Company shall retain all documentation relating to the Partnership Funding until the Company ceases to be under any obligation to the Partnership (including, without limitation, any contingent financial obligation) under the provisions of this Agreement, and upon a breach of any of the Company's obligations to the Partnership or upon the Company becoming subject to any insolvency event or upon a liquidation or a disposal of shares in the Company which results in a change of control (as such term is defined by section 450 of Corporation Taxes Act 2010) of the Company or upon any a disposal of all or substantially all of the Company's business and assets, the Company acknowledges that the Partnership has the right to request and receive all the relevant documentation associated with the Partnership Funding, the Company (pursuant to any reporting or information requirements under this Agreement), and such events.

6 **LIMITS ON STATE AID**

6.1 The Company hereby warrants and represents that it is [incorporated and resident in Northern Ireland or established in Northern Ireland] immediately following completion of the Investment which is the subject of this Agreement it will not be in contravention of any rules and regulations in relation to State Aid that such Investment does not in any way contravene the State Aid Block Exemption Regulations and that its activities do not fall within any sectors or industry for which financial support (including State Aid) is prohibited by any European Union directives or other regulations.

6.2 Notwithstanding any other provision of this Agreement, if required as a result of a decision of the European Commission (a **“Decision”**) or as a result of any other obligation under European Union law (an **“Obligation”**) or if there has been a breach of State Aid rules or regulations including without limitation the State Aid Block Exemption Regulations (in any case a **“Breach”**), the Partnership may notify the Company of the relevant Decision, Obligation or Breach in writing as soon as practicable thereafter and the Partnership shall be entitled to stop making payments of any further Partnership Funding and/or require the Company to pay to it by way of liquidated damages an amount equal to the full amount of all Partnership Funding or such lesser amount as the Partnership may be required or obliged to pay to any Person as a result of such Decision, Obligation or Breach (the **“Damages Payment”**) and the Company shall pay the Damages Payment upon demand by the Partnership, provided that if the relevant Breach is capable of remedy such notice may request that such Breach be remedied and if the relevant Breach is

remedied to the Partnership's satisfaction within 14 days of such written notice then the Partnership shall not demand the Damages Payment.

- 6.3 The Company hereby approves the Company's obligations pursuant to Clauses 6.2 and agrees to sign all documents, deeds and resolutions required to implement the provisions of Clauses 6.2.
- 6.4 Where any sums are payable to the Partnership under the provisions of this Clause 6 the Partnership shall be entitled to recover from the Company the reasonable and proper costs of the Partnership in establishing the Company's payment liability and in recovering the sums due.
- 6.5 For such time as the Partnership is owed any amount by the Company, the Company shall when applying for any form of public body support via any regional or SME support scheme considered by the European Commission as containing an element of State Aid, declare in any such application that it has received investment indirectly from a government source.

To be inserted into definitions section of the relevant agreement:

"State Aid" means any aid granted by an EU Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods which shall, insofar as it affects trade between Member States, be incompatible with the common market.

"State Aid Block Exemption Regulations" means Commission Regulation (EC) No. 651/2014 declaring certain categories of aid compatible with the Common Market in application of Articles 107 and 108 of the TFEU, as extended, modified, amended, replaced or re-enacted from time to time and all regulations from time to time deriving validity therefrom.

"Person" means any natural person, body corporate, partnership, limited partnership, limited liability partnership, trust, unit trust or any regional, national, European or international government department, agency, fund, programme or body.

7. COMMON PROVISION REGULATIONS

- 7.1 The Company warrants it does not have any business relations with entities incorporated in Prohibited Territories.

To be inserted into definitions section of the relevant agreement:

"Prohibited Territories" means jurisdictions that do not co-operate with the European Union in relation to the application of internationally agreed tax standards as updated from time to time.

- 7.2 For as long as the Partnership holds an interest in the Company, the Company shall not maintain business relations with entities incorporated in Prohibited Territories and to the extent any of its current contracts or potential contracts provide for such relations, the Company will amend such contracts so that no such relations are mentioned.

8. TRANSFER

The Partnership shall be entitled at any time to freely transfer any or all of its rights in respect of the Partnership Funding to any of the Limited Partners, any new fund established by the Partnership's Limited Partners and General Partner or to any fund manager nominated by the Partnership whose business is to manage Investments for and on behalf of the Partnership.

9. RESTRICTIVE COVENANTS TO BE CAVEATED

If Restrictive Covenants are placed on shareholders including the Partnership, appropriate carve-outs to be sought:

Re: any clause prohibiting participation/investment in any competing business by limited partners of the Partnership, Invest NI to be carved out altogether (Invest NI future investments/grants cannot be limited).

Re: non-solicitation of customers and employees, such provisions to be expressed not to:

“prevent any client or investee company of Invest NI from taking any of the actions set out in [such clauses] and the same shall not be considered to constitute a breach by [Partnership] of [those clauses}. It is further understood and agreed that [Partnership] shall have no responsibility or liability whatsoever to any party to this Agreement for any actions which such companies may take”.

10. **THIRD PARTY RIGHTS CLAUSE TO BE CAVEATED**

Save for rights specifically conferred on a person pursuant to this Agreement, this Agreement does not confer any rights on any person that is not a party to it.

Executed as a Deed by
[GENERAL PARTNER]
acting by a **director**
In the presence of:

Witness signature:

Witness name:

Address:

Occupation:

Director

Executed as a Deed by
[MANAGER]
acting by a member
in the presence of:

Witness signature:

Witness name:

Address:

Occupation:

Member