

DATE

2019

- (1) ●
- (2) ●
- (3) INVEST NORTHERN IRELAND

LIMITED PARTNERSHIP AGREEMENT
RELATING TO
[SUCCESSOR SEED CAPITAL FUND]

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PARTIES

- (1) ● whose registered office is at ● (Number ●) (the “**General Partner**”);
- (2) ● whose registered office is at ● (Number ●) (the “**Founder Partner**”); and
- (3) Invest Northern Ireland (a Non-Departmental Public Body of the Department for the Economy, or any successor body which carries out its functions) of Bedford Square, Bedford Street, Belfast, BT2 7ES, Northern Ireland (“**Invest NI**”).

INTRODUCTION

- (A) The General Partner and the Founder Partner have formed a limited partnership under the name “●” to carry on the business of an investor and, in particular, of identifying, negotiating, making, monitoring and realising equity and equity related Investments for the purposes of providing seed capital and other early stage funding in accordance with the Investment Policy and to carry out all functions and acts in connection therewith.
- (B) The Partnership has been registered as a limited partnership in Northern Ireland under the Limited Partnerships Act 1907 as it applies in Northern Ireland pursuant to section 1286 of the Companies Act 2006 with number ●.
- (C) The General Partner has agreed to invest and maintain at all times a Commitment in the Partnership as an Investor of at least £[] **[Note: The General Partner is to invest at least 0.5% of the Total Commitments. Bidders to specify investment in Bidding Materials]**
- (D) The Founder Partner has agreed to invest and maintain at all times a Commitment in the Partnership as an Investor equal to 20% of the total Capital Contributions subscribed or committed to be subscribed to the Partnership.
- (E) Invest NI has agreed to invest and maintain at all times a Commitment in the Partnership of £[●] **[Note: £30m plus bid fees less General Partner’s Commitment]**, subject to adjustment in accordance with Clause 24 below.

DEFINITIONS

- (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**” means all costs and disbursements properly incurred by the Partnership, Manager or General Partner in connection with investment proposals which do not proceed to completion;

“**Abort Fees**” means any fees or commissions of any description whatsoever in connection with the proposed transaction by the Partnership which do not complete;

“**Accounting Date**” means 31 March 2020 and 31 March in each year thereafter or such other date as the Manager may determine and agree with the Partners or, in the case of the final Accounting Period of the Partnership, the date when the Partnership is ultimately dissolved;

“Accounting Period” means 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” means the aggregate subscription price of an Investment (including any premium paid) together with any expenses related to such Investment which are properly borne by the Partnership in accordance with the terms of this Agreement;

the **“Act”** means the United Kingdom Limited Partnerships Act 1907, as it applies in Northern Ireland pursuant to section 1286 of the Companies Act 2006;

“Advisory Board” means a committee as described in Clause 15.1;

the **“Agreement”** means this deed of limited partnership agreement, as amended from time to time;

“AIFMD” means the European Union Alternative Investment Fund Managers Directive;

“Associate” means:

- (a) if the person concerned is a body corporate:
 - (i) the holding company of such person or a subsidiary of such person or a subsidiary of any such holding company; or
 - (ii) any other body corporate in which the person holds directly or indirectly 50 per cent or more of any class of equity share capital; or
 - (iii) any director of such person;
- (b) if the person concerned is a limited liability partnership:
 - (i) any subsidiary of such person;
 - (ii) any other body corporate in which the person holds directly or indirectly 50 per cent or more of any class of equity share capital; or
 - (iii) any member of such person;
- (c) if the person concerned is a limited partnership:
 - (i) the general partner of such person; or
 - (ii) if the general partner of such person is a body corporate, any person who is an Associate of the general partner within the meaning of (a) above;
- (d) if the person concerned is an individual or a firm or other unincorporated body:
 - (i) any body corporate in which the person holds directly or indirectly 50 per cent or more of any class of equity share capital; or
 - (ii) the spouse or any business partner of such person or any other Connected Person;

“Associated Investors” means 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, Invest NI);

“Auditors” means such auditors as may be selected by the Manager pursuant to Clause 30;

“Authorised Person” means a person who is an authorised person for the purposes of FSMA;

“Bidding Materials” means 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 officers or employees to Invest NI prior to the date hereof;

“Block Exemption” 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;

“Briefing Notes” means the briefing notes issued in relation to the procurement of this Agreement;

“Business Day” means a day (not being a Saturday or Sunday) on which banks are generally open for business in Belfast;

“Capital Contribution” means in relation to a Partner, the amount contributed by such Partner to the capital of the Partnership being equal, in the case of an Investor, to 0.001% of its Commitment;

“Capital Gain” means the amount (if any) by which the proceeds of realisation of an Investment, (after deduction of expenses of the Partnership associated with the disposal and which are borne by the Partnership in accordance with the terms of this Agreement) exceed the Acquisition Cost thereof;

“Capital Loss” means the amount (if any) by which the Acquisition Cost exceeds the proceeds of realisation of an Investment after deduction of expenses of the Partnership associated with the disposal of such Investment;

“Capital Proceeds” means 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;

“Change of Control” means any direct or indirect change in the majority ownership or control of the share capital of the Manager and/or the General Partner (as the case may be) other than a transfer to an Associate of the Manager and/or of the General Partner (as the case may be);

“Commitment” means:

- (a) in relation to Invest NI, the Invest NI Commitment;
- (b) in relation to an Investor other than Invest NI, the amount committed by it to the Partnership equal to the aggregate of the amount subscribed by it as capital (the Capital Contribution) and the amount agreed to be advanced by it as loan (the Loan Commitment) (and whether or not such amount has been advanced in whole or in part to the Partnership,

and whether or not it has been repaid to the Investor in whole or in part), comprising a Capital Contribution (subscribed on such Investor becoming a Limited Partner) of 0.001% of such amount and a Loan Commitment of 99.999% of such amount; and

- (c) in relation to the Founder Partner the amount committed by it to the Partnership as capital referred to in Paragraph (D) of the Introduction;

“Connected Person” means a person connected with a director of a company as defined in section 252-255 of the Companies Act 2006;

“Contract Notice” means the contract notice to be published in the Official Journal of the European Union by the Construction & Procurement Delivery in relation to this Agreement;

“Controller”, “processor”, “data subject”, “personal data”, “processing” and “appropriate technical and organisational measures” shall each have the meanings set out in the Data Protection Legislation in force at the time;

“Deed of Adherence” means the deed of adherence pursuant to which certain of the Partners are admitted to the Partnership in a form satisfactory to the Manager, and which has been approved by Limited Partner Consent and which may include such amendments as may be required by an Investor as a result of their legal status, governing law and jurisdiction of operation;

“Data Protection Legislation” means:

- (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time;
- (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; and
- (iii) all applicable law in respect of the processing of personal data and privacy;

“DPA 2018” means the Data Protection Act 2018;

“Deal Fees” means all arrangement fees, syndication fees and any other transaction fees directly referable to the making of an Investment;

“Deposit Interest” means all interest earned on the Partnership’s cash funds from time to time;

“Drawdown Notice” means a notice given to the Investors by the Manager in the form substantially the same as is set out in Schedule 1;

“Effective Date” means the date of this Agreement;

“ERDF” means the European Regional Development Fund;

“ERDF Publicity Guidelines” means the Managing Authority Publicity Guidelines as updated or amended from time to time in respect of the Investment for Growth and Jobs Programme 2014-2020 and any subsequent guidelines that may apply to the source of funds for the Partnership from time to time;

“FCA” means the United Kingdom Financial Conduct Authority (or any successor or replacement organisation responsible for the authorisation or regulation of the business of the Manager);

“FCA Rules” means 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;

“First Drawdown Date” means in relation to each Investor, the date upon which the first draw down of its Loan Commitment is made pursuant to Clause 4.1.1;

“Follow-On Investments(s)” means further Investment(s) by the Partnership in an existing Portfolio Company;

“Founder Partner” means ● in respect of its Capital Contributions referred to in Paragraph (D) of the Introduction and only in respect of its aforesaid Capital Contribution;

“FSMA” means the Financial Services and Markets Act 2000 and any successor legislation thereto;

“Fund Plan” means a fund plan to be produced by the Manager in accordance with Clause 14.1.2 and in a form agreed with Invest NI that outlines:

- (a) annual Investment targets (initial and follow-on);
- (b) where an Investment is in a university spin out or university spin in Portfolio Company; and
- (c) anticipated timing for exit of each Investment;

“General Partner” means ● (as constituted from time to time) or its successor for the time being as general partner of the Partnership;

“General Partner’s Share” means the amount referred to in Clause 8.2;

“GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679);

“Grant Management Agreement” means the proof of concept grant management agreement entered into on or around the date hereof between Invest NI and the Manager as may be amended from time to time;

“GVA” means “gross valued added” and in respect of any Portfolio Company is calculated by reference to the increase in its EBITDA (earnings before interest, taxation, depreciation and amortisation) and the direct costs (salary, employer’s national insurance contributions and pension contributions) of all employees of that Portfolio Company;

“HMRC” means HM Revenue & Customs;

“Income” means 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 including, without limitation, payments of Deposit Interest and other fees and charges paid to the Partnership in respect of investments and interest earned on drawn down Loan Commitments prior to Investment;

“Indemnified Individual” means any officer, director, shareholder, agent, partner or employee of the General Partner, the Manager or any Associate of either of them, or a Nominated Director or any duly appointed member of the Advisory Board or Investment Committee;

“Indemnified Person” means any of the General Partner, the Manager, any Associate of either of them and any Indemnified Individual;

“Instructions to Tenderers” means the instructions to tenderers issued in relation to the procurement of this Agreement;

“Interest” means 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;

“Invest NI Commitment” means the amount committed by Invest NI to the Partnership as set out in Paragraph (E) of the Introduction, comprising a Capital Contribution of 0.001% of such amounts and a Loan Commitment of 99.999% of such amount (and whether or not such amount has been advanced in whole or in part and whether or not it has been repaid to Invest NI in whole or in part);

“Investment(s)” means an investment or investments acquired by the Partnership (either directly or indirectly) in accordance with the Investment Policy (whether for consideration in cash or the securities or assets of existing Investments or otherwise) including but not limited to shares, debentures, loan stock or other securities of and loans (whether secured or unsecured);

“Investment Area” means Northern Ireland;

“Investment Committee” means a committee established by the Manager in accordance with Clause 15.2 for the purpose of reviewing and approving investment decisions;

“Investment Holding Company” means a body corporate and/or company and/or partnership wholly or partly owned or acquired by the Partnership (or any custodian or nominee) established or acquired to carry out the Purpose. Loans to an Investment Holding Company and amounts invested in its equity securities shall be treated as Investments and amounts received by the Partnership from an Investment Holding Company shall be treated as proceeds of such Investment;

“Investment Period” means unless otherwise agreed by the Limited Partners by Limited Partner Consent, the period from the Effective Date to the earlier of:

- (a) the fifth anniversary of the Effective Date; or
- (b) the date when there are no Undrawn Loan Commitments and no further Undrawn Loan Commitments can arise; or
- (c) the date the Manager or any of its Associates is appointed to manage a new investment fund having an investment policy substantially similar to that of the Partnership;

“Investment Policy” means the investment policy of the Partnership as set out in Schedule 2 to this Agreement as amended or supplemented from time to time with Limited Partner Consent and subject always to the investment restrictions set out in Clause 1.10 of this Agreement;

“Investment Related Fees” means all agency fees, director’s fees and benefits and management fees in connection with the holding of an Investment;

“Investor” means Invest NI, the General Partner (in respect of its Commitment) and any Substitute Investor who acquires rights and assumes obligations in succession to an Investor (for so long as such Substitute Investor remains a Limited Partner) and any successor to their respective Interests or parts thereof but excluding the Founder Partner;

“IPEV Valuation Guidelines” means the International Private Equity and Venture Capital Valuation Guidelines, December 2018 Edition, as supplemented, amended and/or replaced from time to time;

“KPIs” means the key performance indicators set out in Schedule 3;

“KPI Failure” means a failure by the Manager to achieve one or more KPIs as notified in accordance with Clause 4.6;

“KPI Failure Notice” means notice in writing from the General Partner to the Manager stating that a KPI Failure has occurred giving as much detail as is available to the General Partner of the nature of the KPI Failure;

“LED” means Law Enforcement Directive (Directive (EU) 2016/680);

“**LIBOR**” means the London Interbank Offer Rate for the 3 month sterling deposits as quoted by the Financial Times from time to time during the period in question or, if the Financial Times is not published or does not quote a rate, as quoted by a lending bank selected by the Manager;

“**Limited Partner**” means the Founder Partner and the Investors;

“**Limited Partner Consent**” means the written consent (which may consist of one or more documents each signed by Invest NI or, if Invest NI is not a Limited Partner, a Substitute Investor) of Invest NI or such Substitute Investor(s) who hold Commitments which in aggregate exceed 50% of Total Commitments;

“**Loan Commitment**” means in relation to an Investor, the loan agreed to be advanced by it to the Partnership pursuant to Clause 4 (whether or not such loan has been advanced to the Partnership or repaid to the Investor, in whole or in part) being equal to 99.999% of the Commitment of such Investor;

“**Manager**” means ● or its successor for the time being as manager of the Partnership;

“**Management Services Agreement**” means the management services agreement referred to in Clause 5.5.1 as amended or substituted from time to time;

“**Managing Fees**” means any fees arising out of the management of the Partnership including, without limitation, corporate finance fees and advisory fees (but excluding the General Partner’s Share);

“**Monitoring Fees**” means any monitoring fees or similar charges in connection with the monitoring of any Investment;

“**Named Executive**” each of ● and any additions or replacements appointed in accordance with Clause 4.5.4; **[Note: Three persons to be specified in the Bidding Materials]**

“**Net Income**” means 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, reduced by expenses and losses of the Partnership (other than Capital Losses and expenses included in the Acquisition Costs of Investments and expenses associated with the realisation of Investments);

“**Net Income Loss**” means the amount determined where the calculation of Net Income produces an amount less than zero;

“**New Investments**” means investments in companies in which the Partnership has not previously invested either directly or indirectly;

“**Nominated Director**” means any person nominated by the Partnership or the Manager (or any Associate) to be a director (or equivalent) of any company in which the Partnership holds an Investment;

“**Other Investment Activity**” means any divestments and any drawdowns for the purposes of making Follow-On Investments;

“**Outstanding Loan**” means 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 prepaid (or deemed to be repaid or prepaid) in accordance with Clauses 10.1 10.13, 10.14 or 13;

“**Partner**” means the General Partner and/or any of the Limited Partners, as the context requires;

“Partnership” means ●, registered as a limited partnership in Northern Ireland under the Limited Partnerships Act 1907 as it applies in Northern Ireland pursuant to section 1286 of the Companies Act 2006 with number NI ●, the activities and operation of which shall be governed by the terms and conditions of this Agreement;

“Partnership Assets” means all or any of the assets of the Partnership;

“Portfolio Company” means a body corporate or other entity in which the Partnership holds Investments (whether directly or via an Investment Holding Company);

“Preliminary Expenses” means those expenses incurred in connection with the establishment of the Partnership referred to in Clause 5.10.1(a);

“Prohibited Investments” means:

- (a) Investments which do not fall within the Investment Policy; or
- (b) an Investment that is found to constitute or contain any element of unlawful State Aid or any other financial support that is unlawful pursuant to Northern Ireland and/or UK regulations or legislation;

“Purpose” means the purpose of the Partnership as described in Clause 1.2.1;

“Quotation” means the admission of an Investment to any recognised stock exchange or the granting of permission for an Investment to be quoted or dealt in on a recognised market which in the opinion of the Manager is an appropriate stock exchange or market;

“Realisation” means the occurrence of any of the following events:

- (a) the distribution in specie of any securities; or
- (b) the unconditional completion of an agreement for the sale of the whole or any part of an Investment (save that where the consideration for such sale is comprised partly or securities of a company and partly for cash, in relation to that part of the consideration comprised of securities, there shall be no Realisation for the purpose of this subparagraph (b)); or
- (c) the receipt of any deferred consideration (other than that of an income nature) or the release of a provision made by the General Partner in either case arising from a previous Realisation of the whole or any part of an Investment; or
- (d) at the discretion of the General Partner, the redemption of any securities of a company which is the subject of an Investment (other than any redemption of such securities which is made solely in connection with any other event constituting a Realisation); or
- (e) the winding up or dissolution of any Company in which an Investment is held;

“Realisation Cost” means any Taxation and all reasonably and properly incurred fees and expenses of any professional advisor (including without limitation any legal, corporate finance or M&A advisor) related to the disposal or divestment of an Investment;

“Repayment Date” means any date or time when the Outstanding Loans of the Investors are repaid (or deemed to have been repaid) pursuant to Clauses 10.1, 10.13, 10.14 or 13 and no amount in respect thereof remains outstanding;

“Resource Table” means the resource table showing the required commitment of the Named Executives’ time to the affairs of the Partnership which is set out in Schedule 4;

“Retail Client” shall have the meaning set out in the FCA Rules;

“Share” means the financial share of a Partner in the profits of the Partnership, comprising all or any part of such Partner’s entitlement under this Agreement to:

- (a) 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
- (b) 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;

“Shared Personal Data” means the personal data relating to individuals including (without limitation) the parties to this Agreement, the Portfolio Companies or Investors or any of their staff as shared between the parties to, and in accordance with, this Agreement;

“Side Letter” has the meaning set out in Clause 5.9.1;

“SME” means a small or medium sized enterprise engaged in economic activity irrespective of its legal form that prior to investment by the Partnership:

- (a) has an annual turnover not exceeding EUR 50 million; or
- (b) has an annual balance sheet not exceeding EUR 43 million;
- (c) has fewer than 250 persons employed; and
- (d) is not owned as to 25% or more of the capital or voting rights by one enterprise, or jointly by several enterprises, falling outside the definition of an SME, as more particularly defined in Article 1-6 of Annex 1 of the Block Exemption (provided that if the European Commission shall bring into force any other definition of small and medium sized enterprise it shall whilst it remains in force apply in substitution for the definition set out above);

“Staff” means all persons employed by a party to perform its obligations under this Agreement or the Management Services Agreement, together with that party’s agents, contractors and sub-contractors used in performance of its obligations under this Agreement or the Management Services Agreement or any Side Letter;

“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;

“Sterling” or **“£”** means the official currency of the United Kingdom from time to time which is used as the reference accounting unit of the Partnership as set forth in Clause 1.8;

“Substitute Investor” means a person admitted pursuant to Clause 11 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;

“Taxation” means any form of taxation together with interest or penalties (if any) thereon and any reasonable costs incurred in resisting claims therefor;

“Tax Credits” has the meaning given in Clause 10.13;

“Term” means the period of ten years from the Effective Date subject to:

- (i) any extension of the life of the Partnership in accordance with Clause 13.2; or
- (ii) any termination of the life of the Partnership in accordance with the provisions of this Agreement or the Management Services Agreement;

“TFEU” means the consolidated Treaty on European Union and the Treaty on the Functioning of the European Union 2012/c326/01;

“Total Commitments” means the aggregate amount from time to time of all of the Commitments;

“Transfer” has the meaning given in Clause 11.2;

“TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 2006;

“Underwriting Fees” means any underwriting fees in respect of the Commitment or other Partnership Assets;

“Value” means except where otherwise expressly stated shall mean, in relation to any Investment, such value as shall be determined by the Manager in its reasonable discretion in accordance with the IPEV Valuation Guidelines and, save where the Investment has a Quotation, approved in writing by the Auditors and “Valuation” shall be construed accordingly; and

“VAT” means United Kingdom Value Added Tax and/or any other value added tax or sales tax applicable in the United Kingdom or any other country.

- (2) The terms “subsidiary” and “holding company” bear the respective meanings attributed to them in section 1159 of the Companies Act 2006, 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. However, where such terms are used in connection with an entity which is a limited liability partnership, the words “holding company” and “subsidiary” shall have the meanings given to them above as modified by the Limited Liability Partnerships Regulations 2001.
- (3) 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.
- (4) 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.
- (5) Any reference to a statutory provision shall include that provision as from time to time modified, 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.
- (6) Unless the contrary intention appears:
 - (a) words importing the masculine gender include the feminine;

- (b) words importing the feminine gender include the masculine;
- (c) words in the singular include the plural and words in the plural include the singular;
- (d) all references to an enactment include an enactment comprised in subordinate legislation whenever made; and
- (e) references to a “person” include 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.

OPERATIVE PROVISIONS

1 NATURE AND PURPOSE

1.1 Nature

The Partnership is a 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. In particular, the Manager shall ensure, or shall procure that the General Partner shall ensure that, in respect of the Limited Partners, the amounts referred to in the applicable part of Clause 3 shall be registered as the amounts of capital contributed by the relevant Limited Partner and 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. In the event that the Partnership is unable to pay its debts, liabilities or obligations, the liability of a Limited Partner will be limited to the amount of its Capital Contribution. Nothing in this Clause affects the provisions of Clauses 4 and 10 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.

1.2 Purpose

- 1.2.1 The purpose of the Partnership is to carry on the business of an investor in accordance with the Investment Policy and in particular but without limitation to identify, research, evaluate, negotiate, make, secure, hold, and monitor the progress of and sell, realise, exchange or distribute investments in accordance with the Investment Policy 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 seed and early stage SMEs and, for Follow-On Investments only, in certain quoted companies with the prior written consent of the Advisory Board, 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 always fall within the Investment Policy, with the principal objective of providing Partners with a high overall rate of return by means of both income and capital growth.
- 1.2.2 The Partnership (acting through the General Partner and/or the Manager or persons authorised on behalf of the Partnership pursuant to this Agreement) may execute, deliver and perform all contracts and other undertakings and engage in all activities and transactions as may in the opinion of the Manager be necessary or advisable in order to carry out the foregoing purposes and objectives, subject to and in accordance with the provisions of this Agreement and the Investment Policy.

1.3 Name

The business of the Partnership shall be carried on under the name and style or firm name of “●” or such other name as the General Partner may in its reasonable discretion determine, any such change to be subject to a prior Limited Partner Consent.

1.4 Principal place of business

The principal place of business of the Partnership shall be at ●.

1.5 Commencement and duration

The General Partner and the Founder Partner have been partners in the Partnership since its establishment on ●. The 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. Subject to the provisions of Clause 13 hereof, the Partnership shall continue until the expiry of ten years from the Effective Date.

1.6 The General Partner's Commitment

The General Partner shall commit to the Partnership and maintain a Commitment of the amount specified in Paragraph (C) of the Introduction and shall be treated as an "Investor" in respect of such Commitment for all purposes of this Agreement. The General Partner's Capital Contribution shall be contributed in accordance with Clause 3.2 and its Loan Commitment shall be advanced in accordance with Clause 4.1.1.

1.7 Invest NI's Commitment

Invest NI shall make a Commitment to the Partnership as specified in Paragraph (E) of the Introduction.

1.8 Currency

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 United Kingdom from time to time).

1.9 Co-investment

1.9.1 The General Partner and the Manager shall not, and shall procure that none of their Associates or any of their respective officers, directors (or Connected Persons) shareholders, agents, partners or employees shall make investments in Portfolio Companies or Associates of such companies or provide financing thereto in their own capacity.

1.9.2 If the Partnership ceases to hold Investments in a Portfolio Company (otherwise than at the end of the life of the Partnership or its earlier termination in accordance with Clause 13) the General Partner and the Manager shall not, and shall procure that none of their Associates or any of their respective officers, directors, (or Connected Persons thereof) shareholders, agents, partners or employees shall make without the prior written consent of the Advisory Board, any investment in such Portfolio Company until the expiry of 6 months after the disposal by the Partnership of its Investment in such Portfolio Company.

1.9.3 Subject to applicable law, nothing contained herein shall prohibit any Investor (save for the General Partner and the Founding Partner and any Associate of them), from making investments in Portfolio Companies or Associates of such companies, or providing financing thereto in their own capacity and they shall not be liable to account to the Partnership (or any of the Partners) in relation thereto.

1.9.4 The Manager intends that co-investment opportunities may from time to time be offered independently and on an arm's length basis of this Agreement to Limited Partners (not in their capacity as Limited Partners in the Partnership) who have expressed their interest to the Manager. Such co-investment opportunities will be allocated in a manner which the Manager, acting reasonably, determines is in the best interests of the Partnership (including making appropriate arrangements in relation to cost sharing between the Partnership and the co-

investing Limited Partners on a pro rata basis to the size of their respective investments) and which, in respect of the Limited Partners, is generally in accordance with the respective Commitments of such Limited Partners from time to time.

- 1.9.5 No Investment shall be made in a Portfolio Company in which any of the Manager, the General Partner, any of their Associates, or any of their respective officers, directors, shareholders, agents, partners or employees is a holder of any securities either directly or indirectly.

1.10 Investment Restrictions

- 1.10.1 The Manager shall ensure that all Investments fall within the Investment Policy.
- 1.10.2 The Manager must when deciding whether or not to invest in any potential Portfolio Company, have regard to the reputation of such potential Portfolio Company and all Associates of such potential Portfolio Company and all their respective officers, directors, shareholders, agents, partners and employees and whether the Investment in such potential Portfolio Company could be detrimental to the reputation of Invest NI and the Manager shall not invest in any such Portfolio Company unless, in its reasonable opinion, no such detriment would occur.

2 FURTHER PARTNERS

2.1 Admission of Further Partners

No Additional Limited Partner, other than a Substitute Investor, shall be admitted to the Partnership after the Effective Date.

2.2 Restriction on admission of Partners

- 2.2.1 Notwithstanding any other provisions of this Clause 2 no additional Limited Partner shall be admitted to the Partnership if the admission of such Limited Partner would violate, or cause the Partnership to violate, any applicable law or regulation or if it would cause the number of Partners in the Partnership to exceed the maximum number permitted by the Act (if any) and the Manager, General Partner or any other Partner shall be entitled to rely on any representation or certificate of any Partner as to its legal nature and composition or any other matter for these purposes.
- 2.2.2 Notwithstanding any other provision of this Clause 2, 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 Invest NI and will not admit any such person to the Partnership unless, in its reasonable opinion, no such detriment would occur.

2.3 Categorisation of the Partnership and Partners

- 2.3.1 The Partners acknowledge and agree that:
- (a) when managing the Partnership, the Manager's client under the FCA Rules is the Partnership as an unregulated collective investment scheme, and the Partners individually are not clients of the Manager; and
 - (b) for the purposes of the FCA Rules, the Partnership will be categorised by the Manager as a "professional client", and the Partnership does not wish to be re-categorised as a Retail Client in order to benefit from a higher level of protection under the FCA Rules.
- 2.3.2 No Limited Partner has been or will be admitted to the Partnership which would be a Retail Client at the time of its admission. Accordingly:

- (a) the FCA Rules relating to best execution do not apply, although the Manager will use reasonable efforts to acquire and dispose of Investments on behalf of the Partnership at a price and on terms that it considers to be the best it can reasonably obtain in the circumstances;
- (b) subject to the provisions of Clause 17, if the Manager acquires an investment on behalf of both the Partnership and other customers of the Manager, the Manager will allocate that investment between the Partnership and those other customers within five Business Days of the relevant transaction;
- (c) periodic statements in the format and timing that the Manager would be required under the FCA Rules to provide to Retail Clients resident in the UK will not be provided to Partners; and
- (d) any money held by the Manager will not be subject to the FCA client money protection regime.

2.3.3 If, after admission to the Partnership, a Limited Partner is re-categorised as a Retail Client:

- (a) the Manager may continue to treat such Limited Partner as though it were not a Retail Client;
- (b) the FCA Rules relating to best execution will continue not to apply and the Manager will not be required under the FCA Rules to provide best execution in relation to the Partnership; and
- (c) any periodic statement or other report from time to time required under applicable FCA Rules shall be provided annually (or at such other intervals as may from time to time be the longest permitted under applicable FCA Rules).

3 CAPITAL CONTRIBUTIONS

3.1 The Founder Partner

The Founder Partner has contributed the amount of capital to the Partnership as stated in Paragraph (D) of the Introduction.

3.2 Investors

- 3.2.1 Each Investor shall, either pursuant to Clause 3.2.2 or directly, contribute the amount of its Capital Contribution on its admission as a Partner as specified by the Manager, being 0.001% of its Commitment.
- 3.2.2 Each Investor agrees that the General Partner (or one of its Associates) may, on behalf of the relevant Investor, contribute the amount of the Capital Contribution of such Investor 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 or Invest NI to repay the amount which is owing at the same time as the first drawdown is made from such Investor.

3.3 Interest

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.

3.4 Repayment

Subject as provided in Clause 3.1 and in accordance with Clause 13.5, Capital Contributions shall only be repaid on the termination (unless reconstituted under Clause 13.3) or liquidation of the Partnership.

4 LOAN COMMITMENTS

4.1 Investors and Invest NI

4.1.1 Each Investor:

- (a) shall be required to advance interest free loans to the Partnership up to an aggregate amount equal to its Loan Commitment; and
- (b) 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:
 - (i) monies comprising Capital Proceeds received by the Partnership from underwriting transactions (up to the amount of their Acquisition Cost in each case) made by the Partnership (or any Investment Holding Company) where such commitments or Investments lapse or are sold down in whole or in part within twelve months of the making of the commitment or Investment; or
 - (ii) monies comprising Capital Proceeds received by the Partnership on the realisation of any Investment arising within twelve months of the making of the Investment (up to the amount of its Acquisition Cost); or
 - (iii) the repayment of sums drawn down for a proposed Investment which does not proceed to completion (and the Manager is hereby authorised to repay such sums); or
 - (iv) monies comprising Capital Proceeds received by the Partnership on the realisation of any Investment in respect of which the Partnership has given warranties and/or indemnities and where a claim has been made under such warranties and/or indemnities within two years of the distribution of Capital Proceeds in respect of such Investment; or
 - (v) 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 8.4 when such loans have been funded by draw down of Loan Commitments from Investors;
 - (vi) monies comprising Capital Proceeds from Prohibited Investments as a result of recovery pursuant to Clause 5.11,

and that part of any such distribution shall:

- (A) to the extent of such Investor's Outstanding Loan, be in repayment of such Outstanding Loan; and
 - (B) 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.

- 4.1.2 Loan Commitments shall be advanced in respect of each Commitment as to such amount as when aggregated with the Capital Contribution referred to in Clause 3.2 is not more than 10% of each Commitment on the date of admission of each Investor as a Partner as specified by the Manager and as to the balance 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, subject to any confidentiality requirements, contain summary details of any proposed Investment to which it relates (if any), including the nature of the business carried on and confirmation that the proposed Investment falls within the Investment Policy.

- 4.1.3 Drawdown Notices may only be given for the purposes of drawing down Loan Commitments to make Investments in accordance with the Investment Policy or to meet operating costs and expenses which are to be borne by the Partnership in accordance with this Agreement.
- 4.1.4 For the avoidance of doubt, the Manager (save as provided in Clause 2) shall draw down loans from Investors pro rata to their respective Loan Commitments.
- 4.1.5 Subject to Clause 4.1.6 the Partnership shall make no further drawdowns of Undrawn Loan Commitments after the end of the Investment Period.
- 4.1.6 Notwithstanding Clause 4.1.5, Undrawn Loan Commitments (if any) may be drawn down after the end of the Investment Period for the purpose of paying any obligation of or any of the expenses and liabilities of the Partnership and the General Partner's Share (or advances in respect thereof) and for the purpose of making investments other than New Investments or completing contracts entered into before that date provided that the amounts drawn down for the purpose of making Investments other than New Investments but excluding amounts required for contracts already entered into shall not exceed 40% of the Total Commitments (or in the case of the Manager having given notice cancelling Undrawn Loan Commitments shall not exceed the amount of the Undrawn Loan Commitments which have not been cancelled by the Manager pursuant to that notice); otherwise all Undrawn Loan Commitments (if any) at the end of the Investment Period will be cancelled and shall not be available for draw down and each Limited Partner's Commitment for the purposes of Clauses 8.2 and 10.1 shall be deemed to be reduced by the amount of any such cancelled Undrawn Loan Commitment.

4.2 Other Partners

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

4.3 Interest

The Outstanding Loans will not carry interest.

4.4 Repayment of the Outstanding Loans

The Outstanding Loans shall be repaid in accordance with the terms of Clause 10, subject to the provisions of Clauses 13.5.5 and 13.5.6. Each of the Investors shall be a creditor of the Partnership 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 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.

4.5 Suspension Events

- 4.5.1 Notwithstanding the provisions of Clause 4.4 and subject as provided in Clause 4.5.2, if:
- (a) either (i) any Named Executive ceases to devote the required proportion of his or her business time to the affairs of the Partnership as set out in the Resource Table when averaged over any 12 week period or becomes incapable for any reason of devoting such time or (ii) one or more Named Executives ceases to be an employee or member of the Manager or the Manager is otherwise unable to make his or her services available to the management of the Investments;
 - (b) two or more persons who are members of the Investment Committee cease to be members of the Investment Committee and are not replaced by persons approved by a Limited Partner Consent within 6 months of such cessation;
 - (c) the Manager, or any of the Named Executives, are convicted of any criminal offence (other than a minor road traffic offence);

- (d) the Manager, or any of the Named Executives, are charged with any criminal offence which, on conviction could result in a sentence of greater than six months' imprisonment or any offence involving dishonesty;
- (e) Invest NI determine in their absolute discretion that the Manager is not taking sufficient steps to recover any sums required to be recovered pursuant to Clause 5.11;
- (f) there is a Change of Control;
- (g) the Manager ceases to be an Authorised Person authorised to act as a manager;
- (h) the General Partner and/or the Manager commits or omits to take any action, if such commission or omission exhibits negligence, bad faith, wilful misconduct, fraud or reckless disregard in the conduct of such party's duties towards the Partnership or the General Partner or the Manager, or results in a material violation of any applicable provision of FSMA or the FCA Rules applicable to it as an Authorised Person authorised to act as a manager or is a material violation of law which is materially detrimental to the Partnership and which the General Partner, Manager, Partnership or any Associates of the above or the Named Executives did not reasonably consider to be lawful at the time of the relevant commission or omission;
- (i) the General Partner and/or the Manager commits or omits to take any action, which results in a material breach of the Partnership Agreement, the Management Services Agreement, any Side Letter or the Grant Management Agreement where not capable of remedy, or if capable of remedy which the General Partner or Manager has failed to remedy within 30 days of receipt by the alleged breaching party of notice of alleged breach; or
- (j) the Management Services Agreement or Grant Management Agreement is terminated before the end of its specified term;
- (k) the Financial Transactions Capital of the Northern Ireland Executive for the period after 31 March 2021 does not provide sufficient funding for Invest NI to fulfil the Invest NI Commitment to the extent not already drawn down pursuant to this Agreement,

(any such event being referred to in this Clause as a “**Suspension Event**”) then the Manager shall not cause the Partnership to make any further Investments (to include, for the avoidance of doubt, by way of reinvestment) other than where the Partnership had entered into a legally binding commitment to do so prior to the Suspension Event. Subject to the provisions of Clause 4.5.6, the Manager shall promptly notify the Investors of any Suspension Event and, in any event within 10 Business Days of the occurrence of any Suspension Event.

4.5.2 Where the acquisition of Investments has been suspended pursuant to Clause 4.5.1 the Limited Partners by a Limited Partner Consent, may consent at any time prior to the termination of the Investment Period pursuant to Clause 4.5.3 to the resumption of the making of Investments with such conditions applying as the Limited Partners may, by Limited Partner Consent, agree. If, in the case of Clause 4.5.1(c), the Manager or Named Executive are acquitted of all charges brought against them, or such person receives notice that criminal proceedings will not be brought, then, the Manager may make further Investments. In the case of suspension pursuant to Clause 4.5.1(e) Invest NI may at any time consent to the issue of further Drawdown Notices for further Investments, provided that the Investment Period has not terminated.

4.5.3 Other than if a Suspension Event pursuant to Clause 4.5.1(k) occurs (which is subject to the provisions at Clause 4.5.6), if, after six months from the date of the suspension of the making of Investments pursuant to Clause 4.5.1, the making of Investments has not been resumed pursuant to Clause 4.5.2 then the Investment Period shall terminate and the Commitments and General Partner's Share shall be subject to evaluation pursuant to Clause 24.

4.5.4 If there is a Suspension Event pursuant to Clause 4.5.1(a), the Limited Partners, by a Limited Partner Consent, may approve any person suggested by the Manager as an additional or replacement Named Executive. Any person suggested by the Manager as an additional or replacement Named Executive must be of at least equivalent calibre and experience as the

departing Named Executives. Provided that the Investment Period has not already terminated, if the acquisition of Investments has been suspended pursuant to Clause 4.5.3 but would not have been so suspended if the approval and appointment of the new Named Executive had taken place prior to suspension, then the acquisition of Investments will be resumed.

- 4.5.5 The Manager shall keep the Advisory Board informed on a reasonable and regular basis of any business activities carried out or undertaken by any of the Named Executives during the Investment Period which are related to any other fund, partnership or other pooled investment vehicle managed or advised by the Manager as at the Effective Date.
- 4.5.6 Invest NI shall notify the Manager as soon as reasonably practicable after becoming aware of the occurrence of a Suspension Event pursuant to Clause 4.5.1(k). Invest NI will carry out an evaluation of the Partnership pursuant to Clause 24 and either:
- (a) terminate the Partnership, in which case the provisions of Clause 13.5 shall apply and the General Partner shall be entitled to compensation for termination in an amount equal to the General Partner's Share (or drawing on account thereof) in respect of the six months immediately prior to the date of termination of the Partnership; or
 - (b) amend the Invest NI Commitment in accordance with the provisions of Clause 24.2.

4.6 KPI Failure

- 4.6.1 If at any time there is a KPI Failure, the Manager shall inform the General Partner and the Limited Partners of such KPI Failure in writing and the General Partner shall issue a KPI Failure Notice to the Manager and the provisions of Clause 4.6.2 of this Agreement shall apply. If the General Partner fails to issue a KPI Failure Notice in accordance with this Clause 4.6.1, then a KPI Failure Notice will be deemed to have been issued upon delivery of a report referred to in either Clause 14 below, Clause 13 of the Management Services Agreement or pursuant to any Side Letter which identifies, expressly or impliedly, a KPI Failure.
- 4.6.2 If a KPI Failure Notice is issued or is deemed to be issued pursuant to Clause 4.6.1, the Manager shall remedy the KPI Failure to the satisfaction of the Partners (evidenced by a Limited Partner Consent) ("**Remedy**") or provide a written explanation as to why the KPI Failure was not in any way due to circumstances within the power or control of the Manager in writing to the Partners to the satisfaction of the Partners (evidenced by a Limited Partner Consent) (a "**Reasonable Explanation**"). If within 30 calendar days of issue of or deemed issue of a KPI Failure Notice the Manager fails to Remedy or provide a Reasonable Explanation then unless otherwise agreed by Limited Partner Consent the entitlement of the General Partner to receive payments of the General Partner's Share in accordance with the provisions of Clause 8.2 and any entitlement of the Founder Partner pursuant to Clause 10.1.3, if applicable, shall be suspended and the General Partner shall immediately withhold payment of all (or with Limited Partner Consent) a portion of all future payments of the management fee due to the Manager pursuant to the Management Services Agreement ("**Management Fee**"). The Partners may in their sole discretion, acting by a Limited Partner Consent, allow the Manager a further 30 calendar days (an "**Extension**") to Remedy or to provide a Reasonable Explanation. Where such an Extension has been granted to the Manager and the Manager does Remedy or provide a Reasonable Explanation before the expiry of the Extension, then the entitlement of the General Partner to receive payments of the General Partner's Share in accordance with the provisions of Clause 8.2, entitlement of the Founder Partner pursuant to Clause 10.1.3 and payment of the Management Fee by the General Partner to the Manager shall resume and any portion of the General Partner's Share, the entitlement pursuant to Clause 10.1.3 and Management Fee withheld shall be paid to the General Partner, Founder Partner and/or Manager as appropriate. If the Manager does not Remedy or provide a Reasonable Explanation within an Extension then, the Limited Partners, acting by a Limited Partner Consent, may issue the General Partner notice that either:
- (a) the Investment Period shall terminate and the Commitments and General Partner's Share shall be subject to evaluation pursuant to Clause 24; or

- (b) this Agreement is to be terminated with immediate effect without any liability of any Limited Partner or the Partnership to either the Manager, Founder Partner or the General Partner, and the General Partner, Founder Partner and the Manager hereby expressly waive all claims in relation to any liability of any kind that arises or may arise in relation thereto.

5 THE MANAGER AND THE GENERAL PARTNER

5.1 Appointment of a Manager

5.1.1 The General Partner shall be responsible for ensuring that the Partnership is always managed and operated, and that its Investments are always managed on a discretionary basis by an Authorised Person permitted to do so under FSMA (under the supervision and authority of the General Partner). The General Partner shall have full discretion and authority to appoint and/or terminate the appointment of any Manager subject to Clause 5.1.2 and Clause 5.5.3. If appointed, the Manager shall manage or operate the Partnership, and shall manage the Investments on a discretionary basis, 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 appointment of the Manager shall be without further charge to the Partnership. 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 permitted to do so under the FSMA. The General Partner shall be responsible for procuring the payment of the fees of the Manager and the Manager shall have no rights against the Partnership or any of the Limited Partners in respect of any such fees.

5.1.2 The General Partner and each succeeding general partner of the Partnership shall procure for so long as it remains a general partner of the Partnership that an Associate of the General Partner which is an Authorised Person permitted under FSMA to act as Manager (or if the General Partner decides, but subject to Clause 5.1.3 and 5.6, the General Partner itself), shall agree to act as Manager on terms acceptable to the Partnership (acting through the General Partner) to be agreed by the General Partner. The Partnership (acting through the General Partner) shall appoint as Manager any such Associate from time to time selected as Manager by the General Partner and shall enter into a Management Services Agreement with each succeeding manager, as provided in Clause 5.5.1(a). The appointment of a Manager which is not an Associate of the General Partner shall only be valid if approved in advance by a Limited Partner Consent. The General Partner hereby confirms that an Authorised Person permitted under FSMA to manage and operate collective investment schemes has been selected as the first Manager and the Partners hereby authorise the General Partner to enter into the Management Services Agreement with the Manager on behalf of the Partnership in such form as provided for in Clause 5.5.1(a).

5.1.3 The Partnership shall not carry on any business or operations unless and until in relation to any regulated activities (as defined in the FSMA) or any business or promotion being carried on which requires a manager which is an Authorised Person, it has appointed such a manager under Clause 5.1.2, 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 5.1.1) and the provisions of Clause 4.5 shall apply.

5.2 Restriction on the Limited Partners

5.2.1 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.

5.2.2 Each of the Limited Partners shall at all reasonable times, 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.

- 5.2.3 Save as otherwise provided in this Agreement, and for the avoidance of doubt, each Partner hereby agrees and consents that no Partner shall be required to account to the Partnership for any benefit derived by it or its Associates from any transaction concerning the Partnership.

5.3 Authority and powers of the Manager

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 consistent with the Investment Policy and so as to bind the Partnership thereby:

- 5.3.1 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);
- 5.3.2 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 reasonably considers appropriate for the protection of Partnership Assets;
- 5.3.3 to provide or procure the provision of office facilities within Northern Ireland and office and executive staff and office equipment as necessary to carry on of the business of the Partnership (but this power shall not be construed so as to render the Partnership liable for the costs of the Manager in providing same);
- 5.3.4 to accept applications by and require the Partnership to admit prospective Limited Partners;
- 5.3.5 to issue Drawdown Notices;
- 5.3.6 to enter into, make and perform such deeds, powers of attorney, contracts, agreements and other undertakings, to give such guarantees or indemnities 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);
- 5.3.7 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 any such action must be undertaken acting reasonably and in the best interests of the Partnership with due regard to the reputations of the Partnership and the Limited Partners, and that no action may be taken to commence, commence a defence in respect of, or settle, any material litigation without a Limited Partner Consent;
- 5.3.8 to 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;
- 5.3.9 to open accounts with banks or with custodians, for and in the name of the Partnership, maintain such accounts, draw cheques and give payment and other instructions (including instructions in respect of the payments referred to below in this Clause 5.3) 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;

- 5.3.10 to make distributions to the Partners in accordance with the terms of this Agreement;
- 5.3.11 to pay or direct the Partnership to pay all amounts of Taxation for which the General Partner, the Manager, any Associate or the Partnership is liable on behalf of any Investor 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 the Manager shall first give notice to such Partner of such liability to Taxation and shall use its reasonable endeavours at the expense of such Partner to ensure that the amount assessed is in fact due;
- 5.3.12 to grant and make payments in respect of indemnities in accordance with Clause 16.2;
- 5.3.13 to pay all of the fees and expenses referred to in Clause 5.10.1 to the extent specified therein and to provide against present or future contemplated obligations and contingencies;
- 5.3.14 to furnish reports and valuations to the Partners in accordance with the provisions of Clause 14, the Management Services Agreement and any Side Letter;
- 5.3.15 to admit Substitute Investors to the Partnership in accordance with the provisions of Clause 11;
- 5.3.16 to engage employees, independent agents, lawyers, accountants, custodians, paying and collecting agents and financial and other advisers and consultants as it may reasonably deem necessary or advisable in relation to the affairs of the Partnership including without limitation any Associate of the Manager (provided that any such engagement of an Associate shall be on arm's length terms and shall be disclosed to the Advisory Board) and provided that the Manager shall use reasonable endeavours to follow best practices in procurement when engaging services in accordance with the Manager's procurement policy as notified to Investors from time to time;
- 5.3.17 to appoint a custodian or custodians 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 custodian of the Partnership Assets);
- 5.3.18 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;
- 5.3.19 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 United Kingdom clearing bank or, with Limited Partner Consent, another financial institution;
- 5.3.20 generally to communicate with the Partners and to report to the Partners at such times as it shall think fit or as otherwise reasonably requested by any of the Partners so to do on reasonable notice;
- 5.3.21 to exercise such of the authorities and powers set out in Paragraph (b) of Clause 5.5.1 below as it may from time to time decide as referred to therein (whether instead of or concurrently with the General Partner);
- 5.3.22 to establish, acquire and/or operate Investment Holding Companies including but not limited to exercising any powers or authority granted to the Manager under this Clause or elsewhere under this Agreement through such Investment Holding Company or Companies, provided that any such Investment Holding Company may only be used to acquire, participate in and/or hold underlying Investments that are located in Northern Ireland;

- 5.3.23 to effect such insurances as may be appropriate or desirable for the purposes of the Partnership;
- 5.3.24 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 5.3 or otherwise in the furtherance of the Partnership's business; and
- 5.3.25 to do all or any other acts as are required of the Manager by this Agreement or as are necessary or desirable in the reasonable opinion of the Manager in furtherance of the foregoing powers and consistent with the terms of this Agreement.

5.4 Termination of the Manager's Appointment

- 5.4.1 The events on which the appointment of the Manager shall terminate shall be set out in Clause 16 of the Management Services Agreement.
- 5.4.2 The Investors shall be immediately notified of the termination of the Manager's appointment.

5.5 Authority and Powers of the General Partner

- 5.5.1 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 (e) 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):
- (a) sign a management services agreement with the Manager and with each succeeding manager in such form as it may approve (the "**Management Services Agreement**") which shall reflect the provisions of this Agreement in relation to the management and operation of the Partnership and 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, provided further that any change to the terms of the Management Services Agreement shall, other than where such change is required by law or by the regulations of any regulatory authority, require the prior consent of the Limited Partners by a Limited Partner Consent, and the General Partner hereby undertakes that it will provide a copy of any amendments to the Management Services Agreement to all the Limited Partners as soon as reasonably practicable after their adoption;
 - (b) execute and deliver 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 5.3 or any other provision of this Agreement or the Management Services Agreement;
 - (c) veto the choice by a Manager of a custodian or custodians of the Partnership assets;
 - (d) execute any deed or document or do any other act or thing which the Manager may lawfully and properly require or cause the General Partner to execute or do under the provisions of this Agreement; and/or
 - (e) 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 the Manager under Clause 5.3 or has been assumed by the Manager under the earlier provisions of this Clause 5.5.1.
- 5.5.2 Without prejudice to Clause 5.5.1 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.

5.5.3 The General Partner shall be obliged to enforce the terms of the Management Services Agreement against the Manager and to exercise all rights and discretions conferred upon it by the Management Services Agreement in good faith and in the best interests of the Partnership.

5.5.4 The Management Services Agreement shall contain obligations with respect to the management and control of the Partnership at least as onerous as those imposed on the General Partner under this Agreement.

5.6 Restrictions on the General Partner

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.

5.7 Separate liabilities of the General Partner

The General Partner hereby undertakes that it shall 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 shall 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.

5.8 Restrictions on Marketing

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.

5.9 Side Letters

5.9.1 All Partners agree that the Partnership, the General Partner and/or the Manager may enter into side letters, side arrangements or similar special arrangements with any or all Limited Partners which have the effect of establishing rights or altering or supplementing the terms of this Agreement (“**Side Letters**”).

5.9.2 Notwithstanding Clause 5.9.1, neither the General Partner nor the Manager may enter into any Side Letter with any Investor or prospective Investor without the prior disclosure to the Investors and with a Limited Partner Consent.

5.10 Expenses and Fees

5.10.1 The Partnership shall be responsible for all reasonable expenses, direct or indirect, properly incurred in relation to the administration of the Partnership including (but not limited to) (i) auditor’s fees, (ii) accounting expenses (including any expenses associated with the preparation of the Partnership’s financial statements and tax returns) (iii) any litigation expenses reasonably and properly incurred in respect of protection of the Partnership Assets, (iv) professional indemnity insurance costs relating directly to the Partnership and (v) fees and expenses in relation to the Advisory Board and (vi) bank charges but not:

(a) the establishment of the Partnership (all such expenses relating to the establishment of the Partnership being included in the first year’s fees payable to the Manager pursuant to the Management Services Agreement);

(b) costs of printing and circulating reports and notices, all introduction and similar fees, Abort Costs, legal fees, administrators’ fees, valuers’ fees, fees and expenses incurred in relation to any custodian or nominee of the Partnership Assets, establishment and ongoing fees and expenses of any conduit entity, external consultants’ fees, advertising costs, costs of annual meetings of Investors, insurance costs (other than profession indemnity costs relating directly

to the Partnership), extraordinary expenses (such as litigation other than expenses as provided at Clause 5.10.1(iii)) and all stamp duties and fees of lawyers, auditors, valuers and any external consultants arising in respect of identifying, researching, evaluating, negotiating, making, securing, monitoring, acquiring, holding, realising, exchanging and/or distributing Investments; or

- (c) overheads of the General Partner or of the Manager properly payable by the General Partner or by the Manager including remuneration and expenses paid to their employees, rent and utilities expenditure; or
 - (d) any fees or expenses of any members of the Investment Committee;
 - (e) expenses recovered from companies or other entities in which the Partnership has made (or proposes to make) an Investment; or
 - (f) commissions payable to placement agents, brokers and intermediaries,
- all of which shall be for the account of the General Partner.

5.10.2 The General Partner must consult with the Limited Partners in respect of any litigation expenses proposed to be incurred by or on behalf of the Partnership in respect of protection of the Partnership Assets pursuant to Clause 5.10.1(iii) which exceed £5,000 in respect of any one set of proceedings or relating proceedings.

5.10.3 Any costs of the Manager in complying with AIFMD or similar regulatory costs shall not be borne by the Partnership unless directly referable to the business of the Partnership.

5.10.4 Actual expenditure incurred that is proposed to be paid by the Partnership pursuant to Clause 5.10.1 above shall be fair and reasonable and shall not exceed prevailing open market rates for comparable services and shall be evidenced by original vouched and receipted invoices and/or receipts and any Limited Partner shall be entitled upon reasonable notice to inspect such records of expenditure and to be provided with a breakdown of expenditure incurred.

5.10.5 Subject only to Clause 5.10.4 and other than the expenses noted for the Partnership's account in Clause 5.10.1 and the General Partner's Share, the General Partner and the Manager shall not, and shall procure that none of their Associates nor any of their employees or agents shall, charge or pass on to the Partnership or Portfolio Companies any fees or commissions whatsoever including, for the avoidance of doubt but without limitation any professional advisor fees incurred by the Partnership, Abort Fees, Deal Fees, Investment Related Fees, Monitoring Fees, Underwriting Fees or Managing Fees on the making or Realisation of any Investment or at any time during the period of an Investment.

5.10.6 Notwithstanding Clauses 5.10.1 and 5.10.3 above, any Acquisition Cost or Realisation Cost relating to an Investment or a Follow-On Investment shall be borne by the Partnership out of its own assets and/or the relevant Portfolio Company (as the case may be) and not by the Manager or the General Partner out of the General Partner's Share or their own resources. Further, for the avoidance of doubt, the General Partner and the Manager shall be entitled to require any Portfolio Company to pay reasonably and properly incurred legal fees incurred by the Partnership wholly and exclusively in relation to the making of an Investment or a Follow-On Investment. The General Partner and the Manager shall produce boiler plate investment agreements for the various types of Investments to be made by the Partnership and procure a schedule of fixed cost pricing for legal fees with a reputable legal firm(s), such schedule to be to the reasonable satisfaction of Invest NI.

5.10.7 The Manager shall not charge any other fees in respect of its activities in relation to the Partnership and for the Investments.

5.11 Prohibited Investments

- 5.11.1 Where the Partnership makes any Investment that falls within (a) of the definition of “Prohibited Investments”, the Manager shall use its best efforts to obtain repayment of, or sell, such Prohibited Investment as soon as possible thereafter for the best price achievable in the circumstances.
- 5.11.2 Where the Partnership makes any Investment that falls within the definition of “Prohibited Investments”, the Manager shall recover any sums which Invest NI is required to recover pursuant to a decision of the Commission of the European Communities, European Court of Justice or any other competent authority including for the avoidance of doubt, any interest at the rate set by such authority. The Manager will ensure that whenever an Investment is acquired that it is able to require the repayment of any sums so invested which are capable of being required pursuant to this Clause.
- 5.11.3 The Manager, General Partner and Founder Partner shall indemnify and keep indemnified the Limited Partners (other than the Founder Partner), the Partnership and the Portfolio Companies from any loss, damage, cost or expense incurred by any of them by reason of an Investment being outside the Investment Policy or outside the terms of the Block Exemption, including any such loss, damage, cost or expense resulting from the operation of Clause 5.11.2.

5.12 Distributions in Specie Issues

In contemplation of the liquidating trustee making distributions in specie under Clause 13.5, when negotiating prospective Investments on behalf of the Partnership the Manager shall use its reasonable endeavours to procure that the terms and conditions on which it make such Investments provide that the Limited Partners are “permitted transferees” or similar and that there are no other substantive contractual restrictions on the Manager (or liquidating trustee, if different) in making such distributions in specie of Investments to Limited Partners.

5.13 Management Resources

- 5.13.1 During the term of the Partnership, the Manager shall dedicate adequate resources to the management of the Partnership to enable it to fulfil its obligations under the Management Services Agreement and the Partnership Agreement (as determined by the Manager acting reasonably).
- 5.13.2 Without prejudice to Clause 5.13.1, the Manager agrees that it will ensure that it devotes sufficient resources, investment professionals and time to properly manage the affairs of the Partnership and that the Named Executives will devote not less than the relevant proportion of their time to the management of the Partnership as set out in the Resource Table.
- 5.13.3 Subject as provided in Clause 4.5, until the end of the Investment Period, the Manager shall ensure that the Named Executives are employed and engaged by the Manager and based in Northern Ireland.

5.14 Insurance

The Manager shall be required at all times throughout the term of its appointment to take out and maintain in force at the cost of the Partnership pursuant to Clause 5.10.1 and with a reputable insurer of good financial standing professional indemnity insurance with a minimum level of indemnity of £10,000,000 in aggregate and £2,000,000 per occurrence in aggregate or, if such amounts are no longer available in the market at reasonable commercial terms, such lower amount as the Manager shall be able to procure on reasonable commercial terms (“**Required Insurance**”). The Manager shall be required to provide to the Partnership on request:

- (a) copies of the policy relating to the Required Insurance or such other information as the Partnership may request to enable it to verify that the Required Insurance is in place;
- (b) evidence that the premiums payable under the Required Insurance have been paid and that the Required Insurance is in full force and effect; and

- (c) evidence that the interest of the Partnership has been noted on such policy and such security as the Partnership may require to protect the interest of the Partnership under such policy.

The General Partner and Manager shall ensure that all other insurances that are required by law or are in line with market practice for general partners and fund managers are taken out and maintained with a reputable insurer of good financial standing at an adequate level in keeping with its industry and level of responsibility. For the avoidance of doubt, the cost of all other such insurance required by the General Partner and/or the Manager shall not be for the account of the Partnership.

6 DEBTS AND LIABILITIES OF THE PARTNERSHIP

6.1 Personal Liability

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.

6.2 Advances by General Partner

If at any time following the date when the full amount of the Loan Commitments shall have been advanced the liabilities of the Partnership other than the Outstanding Loans cannot be satisfied out of the Partnership's cash funds and the General Partner is required by law or otherwise obliged to make any payment in respect of such liabilities, the amount of any such payment made by the General Partner shall subsequently be repayable to the General Partner together with interest thereon at the rate of LIBOR plus 2% from time to time and when cash funds become available to the Partnership.

7 PARTNERSHIP ACCOUNTS AND TAX INFORMATION

7.1 Partnership Records

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 Partner and its representatives reasonable access at any reasonable time for the purpose of inspecting the same.

7.2 Preparation of Annual Accounts

The Manager shall, in addition to performing its obligations under Clause 14, at its own cost prepare and approve half yearly and full year accounts of the Partnership for each Accounting Period in accordance with UK generally accepted accounting practices as modified with the agreement of the Auditors from time to time, including a balance sheet, profit and loss account, a statement of the amount of the income account, capital accounts and loan accounts of each Partner and a summary of movements in such accounts. The Manager shall cause such full year accounts to be audited by the Auditors. A copy of the audited full year accounts including the report of the Auditors and a statement of accounting policies shall be despatched to each Partner as soon as possible but not later than 90 days following each Accounting Date and a copy of the half yearly accounts shall be so despatched not later than 60 days following the expiry of the half year period. The first audited accounts of the Partnership will be for the period from the Effective Date to the first Accounting Date of the Partnership.

7.3 Partners' Accounts

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:

- 7.3.1 the Capital Contribution of each Partner shall be credited to its capital contribution account;

- 7.3.2 the Loan Commitment drawdowns shall be credited to its loan account and repayments of Outstanding Loan pursuant to Clause 10.1 or otherwise pursuant to this Agreement shall be debited to such account; and
- 7.3.3 the Net Income, Net Income Losses, Capital Gains and Capital Losses allocated to each Partner pursuant to Clause 8 or 9 shall be credited or debited as the case may be to that Partner's income account or capital account: distributions to each Partner pursuant to Clause 10 (other than repayments of Outstanding Loan) shall be debited to that Partner's income account or capital account.

7.4 Tax Information

- 7.4.1 The Manager shall upon the request of any Limited Partner promptly furnish to such Limited Partner any information in its possession or under its control that is reasonably necessary in order for such Limited Partner to withhold tax or to file tax returns and reports or to furnish tax information to any of its partners for the same purpose as in the case of the provision of information for use by a Limited Partner.
- 7.4.2 Notwithstanding Clause 19 the General Partner, Manager and Partners shall be entitled to disclose to any governmental (including tax) authorities in connection with the Partnership such information about the identity of the Partners and their respective interests in the Partnership as any such authorities may require it to disclose.
- 7.4.3 The General Partner shall procure that the financial and accounting records of the Partnership shall be preserved for a period of at least 7 years after the termination of the Partnership and any Limited Partner shall at all reasonable times, subject to having given reasonable notice, have access to and the right to inspect such records during normal business hours.

8 GENERAL PARTNER'S SHARE

8.1 Allocation of the General Partner's Share

Subject to the provisions of Clauses 4.5 and 4.6, 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.

8.2 Calculation of the General Partner's Share

- 8.2.1 Subject to any adjustment pursuant to Clause 24, the General Partner's Share for each Accounting Period shall be an amount equal to:

[Note: Bidders to bid in on GP's Share - not to exceed £8m, expressed as a % by reference to the Total Commitments]

- 8.2.2 If the Manager has made any Prohibited Investments, then the Total Commitments for the purposes of determining the General Partner's Share under Clause 8.2.1, from the Adjustment Date (as defined below) shall be deemed to be reduced by such Prohibited Investment (whether or not there is any Net Income or Capital Proceeds derived from such Investments) at the time of and with effect from the date the relevant Investment is found to be outside of Investment policy or is found to constitute or contain any element of unlawful State Aid or other unlawful financial support, as applicable (in each case as referred to in Clause 5.11) ("**Adjustment Date**"). To the extent that the amounts of the General Partner's Share received in respect of the period from and following the Adjustment Date, exceed the amount of General Partner's Share under Clause 8.2.1, the excess shall be treated as an interest free loan which shall be set off against, and repaid from, the General Partner's Share subsequently allocated to the General Partner.

- 8.2.3 If the life of the Partnership is extended in accordance with the terms of Clause 13.2 hereof, after the expiry of ten years from the Effective Date, the General Partner's Share shall be such reasonable amount as is agreed between the Manager, the General Partner and the Limited Partners acting by a Limited Partner Consent.

8.3 Provisions relating to General Partner's Share

The following provisions shall apply in relation to the allocation of the General Partner's Share:

- 8.3.1 the General Partner's Share shall rank as a first charge on Net Income in any Accounting Period;
- 8.3.2 if Net Income in any Accounting Period shall exceed the share thereof to be allocated to the General Partner hereunder, the General Partner shall be entitled to elect, so far as practicable, which items of Net Income shall form the whole or a part of the share of Net Income allocated to the General Partner; and
- 8.3.3 if Net Income in any Accounting Period shall be less than the General Partner's Share, there shall be allocated to the General Partner as a first charge on all or against any surplus of Capital Gains over Capital Losses in such Accounting Period an amount not exceeding the amount of the General Partner's Share which remains unsatisfied out of Net Income,

provided that, instead of the order of priority set out in Clauses 8.3.1, 8.3.2 and 8.3.3 above, the General Partner shall, so long as such allocation would not adversely affect any Limited Partner, be entitled to allocate the General Partner's Share against such items of Income or Capital Gains as it may select.

8.4 Deficiency in General Partner's Share

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 10.14 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.

8.5 Adjustment between Investors' Accounts

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 Partner and the Manager shall be entitled to make such adjustment between Investors' accounts as it shall consider reasonable to reflect this.

At no time shall the General Partner or any of its Associates, or any officer, director, shareholder, agent, partner or employee of the General Partner or any of its Associates, receive loans from the Partnership (other than loans arising from the performance by it of its duties and responsibilities under this Agreement, including but not limited to payment of the General Partner's Share), if, at the relevant time, the Partnership shall have insufficient cash revenues to meet the cost of the same.

9 ALLOCATION OF REMAINING PROFITS AND LOSSES BETWEEN PARTNERS

9.1 Allocations

- 9.1.1 Every Partner has an interest in every asset of the Partnership and accordingly, subject to the provisions of Clause 9.1.2 and to the following provisions of this Clause itself, all Net Income, Net Income Losses, Capital Gains and Capital Losses of the Partnership remaining after the allocation of the General Partner's Share pursuant to Clause 8 shall be allocated between the Partners upon receipt by the Partnership in a manner consistent with their entitlements to distributions pursuant to Clause 10.1.
- 9.1.2 Notwithstanding Clause 9.1.1, 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.

9.2 Disposal of Investments after each Repayment Date

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 necessary at each Repayment Date, such part of the income or proceeds of disposal as is in excess of the amount required to repay the amount necessary at each Repayment Date shall be treated as having been realised after the relevant Repayment Date.

9.3 Distributions in Specie

If a decision is made to distribute any Partnership Assets in specie in accordance with Clause 10.6, 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.

10 DISTRIBUTIONS OF CAPITAL PROCEEDS AND INCOME BETWEEN PARTNERS

10.1 Application of Cash

Subject to Clauses 8, 10.2, 10.3, 10.4, 10.11, 10.13 and 24 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):

- 10.1.1 first, in payment of the General Partner's Share (less any amounts already drawn in respect of the General Partner's Share under Clause 10.14), any interest-free loan referred to in Clause 8.4 and any repayment referred to in Clause 6.2;
- 10.1.2 second, to the Investors pro rata to their respective Commitments until the Investors have been repaid all their Outstanding Loans;
- 10.1.3 third, as to 80% to the Investors pro rata to the amount of their respective Capital Contributions and 20% to the Founder Partner; and
- 10.1.4 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 13.5.

Distributions to Investors pursuant to this Clause 10.1 shall be applied, subject as provided in Clause 10.12.3 in respect of distributions in specie, first in repayment of their Outstanding Loans (if any).

10.2 Prohibited Investments

Notwithstanding the provisions of Clause 10.1, the amount to which the Founder Partner would be entitled pursuant to Clause 10.1 shall be reduced by an amount equal to 20% applied to:

- 10.2.1 the aggregate of all Net Income and Capital Proceeds deriving from any Prohibited Investment; less
- 10.2.2 any amount advanced in making such Prohibited Investment,

or, where such sum is less than zero, the amount to which the Founder Partner would be entitled pursuant to Clause 10.1.3 shall be reduced by the whole of the amount referred to in Clause 10.2.2 minus the amount calculated in accordance with Clause 10.2.1 above. The entitlement of the Investors pursuant to Clause 10.1.3 shall increase by an equivalent amount accordingly.

10.3 Deposit Interest

Notwithstanding Clause 10.1, 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.

10.4 Restriction on distributions to the Founder Partner

Notwithstanding the provisions of Clause 10.1 the Manager shall retain within the Partnership such part of the Income and Capital Proceeds which would have been distributable to the Founder Partner pursuant to Clause 10.1 and such amounts shall be placed in a separate account in the names of the Partnership but for the benefit of the Founder Partner (the "**Retained Account**") and shall only be released in accordance with Clauses 10.5, 10.6 and/or 10.7.

10.5 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 to Taxation which has been made against it or any partner of it (or any beneficiary or settlor thereof) or against any assignee of all or part of its Share (as permitted pursuant to Clause 11.1) by the HMRC or any relevant tax authority 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 to taxation made in respect of any interest on the Retained Account) or otherwise pursuant to applicable law which are not distributed to the Founder Partner due to the application of Clause 10.4, and any distribution made pursuant to this Clause 10.5 shall not be repayable by the Founder Partner or any other person.

10.6 The Founder Partner shall be entitled to have distributed to it as Founder Partner cash from the Retained Account up to an amount equal to 20% applied to the excess (if any) of:

10.6.1 all distributions to Partners (including those which would have been distributed but for this Clause 10.6); over

10.6.2 Total Commitments,

after taking account of any adjustment pursuant to Clause 10.2.

10.7 Upon the termination of the Partnership if the amount in the Retained Account is greater than zero it shall be released from the Retained Account and distributed to the Investors to the extent necessary to repay any Outstanding Loans to Investors and any balance of the Retained Account shall be distributed in accordance with the respective entitlements of the Partners under Clause 10.1 (taking account of all amounts already distributed) and after taking into account any adjustment pursuant to Clause 10.2.

10.8 Bank Account

Pending distribution of sums pursuant to Clause 10.9, all such amounts shall be placed in an account with a United Kingdom clearing bank or, with the consent of Investors by a Limited Partner Consent, another financial institution.

10.9 Timing of Distributions

10.9.1 Distribution of Income

Subject to the provisions of Clause 10.10, Income of the Partnership shall be distributed in accordance with Clause 10.1, 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.

10.9.2 Distributions of Capital

Subject to the provisions of Clauses 10.10 and 10.11 Capital Proceeds shall be distributed in accordance with Clause 10.1, in Sterling, as soon as practicable after the relevant amounts have been received by the Partnership.

10.10 Re-investment

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. The Manager shall be entitled to cause the Partnership to re-invest:

- 10.10.1 monies comprising Capital Proceeds received by the Partnership from underwriting transactions (up to the amount of their Acquisition Cost in each case) made by the Partnership (or any Investment Holding Company) where such commitments or Investments lapse or are sold down in whole or in part within twelve months of the making of the commitment or Investment;
- 10.10.2 monies comprising Capital Proceeds received by the Partnership on the realisation of any Investment arising within twelve months of the making of the Investment (up to the amount of its Acquisition Cost);
- 10.10.3 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 8.4 when such loans have been funded by draw down of Loan Commitments from Investors; and
- 10.10.4 the proceeds of deposits or short-term negotiable instruments made or acquired pursuant to Clause 5.3.18 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.

10.11 Limitations on Distributions

The Manager shall not be obliged to cause the Partnership to make any distribution pursuant to this Clause 10:

- 10.11.1 unless there is sufficient cash available therefor;
- 10.11.2 which would render the Partnership insolvent; or
- 10.11.3 which, in the 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, without limitation, the General Partner's Share in respect of any Accounting Period).

10.12 Distributions in specie

- 10.12.1 Where Investments have achieved a Quotation, the Manager shall be entitled, unless such Investment is subject to restrictions on any such distribution, to make a distribution of assets in specie in relation to the Investment concerned, on the basis set out in this Clause 10.12 at the Value attributable to such assets, provided that the Manager shall give at least 10 Business Days' notice to the Partners of its intention to make any such distribution in specie.
- 10.12.2 Distributions in specie of securities of any class shall be made on the same basis as distributions of Capital Proceeds such that each Partner entitled to receive such distribution shall receive a proportionate amount of the total securities of such class available for

distribution, or (if such method of distribution is for any reason impracticable) such that each Partner shall receive as nearly as possible a proportionate amount of the total securities of such class available for distribution together with a balancing payment in cash in the case of any Partner who shall not receive the full proportionate amount of securities to which he would otherwise be entitled hereunder and a balancing debit entry on the appropriate account of any Partner who shall receive more than the full proportionate amount of securities to which it would otherwise be entitled hereunder. Any such distribution in specie shall be applied in the order set out in Clause 10.1 at the Value of the Investment concerned. Where the distribution in specie is made contemporaneously with the Investment achieving a Quotation, the Value of the Investment concerned shall be the listing price of the Investment. 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 weighted average of the quoted closing price of those securities in the five previous trading days prior to such distribution (or if shorter the period from the date of listing) and the five trading days following such distribution.

10.12.3 Any Limited Partner not wishing to receive securities by way of a distribution in specie pursuant to this Clause may require the Manager to retain the Investors' proportion of the Investment to be distributed in specie pursuant to this Clause and on behalf of the Investor use its reasonable endeavours to dispose of such securities as soon as practicable and distribute the net proceeds of such disposal to the Investor. Any such Investment held by the Manager shall cease to be Partnership Assets and shall be deemed to have been distributed in specie to the relevant Investor in accordance with this Clause. The relevant Investor shall be responsible for all costs or expenses associated with the Manager holding such securities.

10.12.4 The provisions of this Clause 10.12 apply to distributions in specie during the life of the Partnership and shall be without prejudice to the provisions of Clause 13.5.

10.13 Tax Credits

For the purposes of Clause 9 and this Clause 10, the amount of income allocated or distributed to Partners shall be deemed to be the aggregate of such income and any United Kingdom income tax withheld or foreign tax withheld from dividends or interest ("**Tax Credits**"), provided that where in the case of the General Partner any part of the General Partner's Share paid pursuant to Clause 10.1 includes Tax Credits it shall be entitled to an interest free loan from the Partnership of an amount equal to the amount of such Tax Credits until such time as the General Partner obtains repayment from the tax authorities of an amount equal to the Tax Credits or it (or its partners) receives an equivalent benefit or, if earlier, the date on which the General Partner (or its partners) is liable to pay corporation tax on that income, at which time it shall repay such loan.

10.14 Drawings by the General Partner

10.14.1 The General Partner shall be entitled to make drawings out of the Partnership's cash funds, on the Effective Date in respect of the period from such Effective 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 8.1 or by interest-free loan pursuant to Clause 8.4) pursuant to this Agreement then additional drawings shall be made to make good the shortfall or the excess shall within 10 Business Days be repaid to the Partnership (together with interest at a rate of LIBOR plus 2% per annum from the date of the excess drawings to the date of repayment), as the case may be.

10.14.2 In no circumstance (except to the extent of any excess drawings as stated in Clause 10.14.1 above) shall any drawings made pursuant to this Clause 10.14 be repayable by the General Partner other than by a set-off against allocations of Net Income and Capital Gains.

11 TRANSFER OR ASSIGNMENT OF INTERESTS OR SHARES

11.1 Assignment of Rights and Obligations and Retirement of the General Partner

The General Partner shall not sell, assign, transfer, exchange, pledge, encumber or otherwise dispose of 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 Limited Partners by a Limited Partner Consent.

11.2 Restriction on assignment of Interest of Limited Partners

11.2.1 No sale, assignment, transfer, exchange, pledge, encumbrance or other disposition (including the granting of any participation) ("**Transfer**") of all or any part of any Limited Partner's Interest or Share (other than Invest NI's Interest and/or Share, which shall be freely transferable to any replacement or successor body or any person engaged to manage investments on behalf of Invest NI or otherwise), whether direct or indirect, voluntary or involuntary (including, without limitation, to an Associate or by operation of law), shall be valid or effective except:

- (a) 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 provided that in the case of any Transfer:
 - (i) to an Associate of an existing Limited Partner provided however that no Transfer shall be valid without the consent of the Manager (which consent can be given or withheld in its sole and absolute discretion) if it is undertaken as a series of Transfers which would result in the ultimate transferee not being an Associate of the original transferor; or
 - (ii) to a replacement trustee or replacement trustees of an existing Limited Partner which holds its interest on trust for one or more beneficial owners provided that there is no change in beneficial ownership; or
 - (iii) to any custodian or nominee of an existing Limited Partner provided there is no change in beneficial ownership,

then such consent shall not be unreasonably withheld or delayed; and

- (b) where none of the following apply:
 - (i) such Transfer would cause the Partnership to be disqualified or terminated as a partnership (including for applicable tax purposes); or
 - (ii) such Transfer would result in the Partnership ceasing to be a limited partnership under the Act.

11.2.2 The Transfer of any Interest or Share in the Partnership shall not cause the dissolution of the Partnership.

11.3 Position of Substitute Investors

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 11, 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 and notification of the transfer has been placed in the Belfast Gazette as required pursuant to the Act.

11.4 Restriction on number of Partners

If the Interest of any Investor or Investors shall be such as to cause the number of Partners to exceed the maximum number permitted under the Act (if any) by reason of the ownership of the Interest of any Investor being otherwise than as represented to the Manager at the time of such Investor's admission to the Partnership, then the Manager shall have the right in its sole discretion to expel such Investor from the Partnership, in which event the Manager shall, as soon as the Partnership is able to do so, return to such Investor the amount of its Capital Contribution and Outstanding Loan together with any such additional amount or as reduced by any such amount, and may make any and all corresponding adjustments to the Partnership accounts and the accounts of the other Partners, as the Manager shall in its absolute discretion think fit in all the circumstances, whereupon such Investor shall cease to have any Interest whatsoever in the Partnership.

11.5 Assignment of Interests or Shares in Violation of this Clause

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 Loans or otherwise with respect to interests in the Partnership.

11.6 Withdrawal

Except as provided in this Clause 11, or otherwise agreed with the Manager no Limited Partner shall have the right to withdraw from the Partnership.

11.7 Expulsion of Investors

11.7.1 If the General Partner shall receive notice or otherwise become aware that any Investor is the subject of any statutory or regulatory prohibition or that there are other facts, matters or circumstances (including possible money laundering activities) as a result of which such Investor was not legally authorised to subscribe for its Commitment, the General Partner shall have the right to expel such Investor from the Partnership, in which event the General Partner shall, as soon as the Partnership is able to do so, return to such Investor the amount of his Capital Contribution and any Loan Commitment then outstanding PROVIDED THAT the amount returned to such Investor shall not exceed the value of the Investments attributable to that Limited Partner's Interest as shown in the last quarterly report, whereupon such Investor shall cease to have any Interest whatsoever in the Partnership.

11.7.2 For the avoidance of doubt, the General Partner's Share and the Invest NI Commitment shall be subject to an evaluation and potential adjustment pursuant to Clause 24 upon the expulsion of any Investor.

12 MEETINGS OF THE PARTNERSHIP

12.1 Meetings

12.1.1 The Manager shall convene a meeting of the Partnership in each Accounting Period 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.

12.1.2 Any Limited Partners whose Commitments in aggregate represent 10% or more of Total Commitments may, by notice in writing together with 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 14 days from the date of that notice.

- 12.1.3 The accidental omission to give notice of a meeting to, or the non-receipt of a notice of a meeting by, any Partner shall not invalidate the proceedings at the meeting.
- 12.1.4 Meetings shall be held at such locations in Northern Ireland as the Manager may from time to time determine.
- 12.1.5 The Limited Partners may, by a Limited Partner Consent, agree to the calling of a meeting on shorter notice than specified in Clause 12.1.1 or 12.1.2 above.

12.2 Quorum

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, two Partners of which one shall be Invest NI present in person or by proxy shall constitute a quorum.

12.3 Chairman

The chairman of the Manager shall preside as chairman of every general meeting of the Partnership or if he is not present or is unwilling to act the directors of the Manager shall elect one of their number to be chairman of the meeting.

12.4 Voting

At any general meeting a resolution put to the vote of the meeting shall be validly adopted if approved by Limited Partner Consent (present in person or by proxy) whose aggregate Commitments represent at least 50% of Total Commitments. If, however, the particular action would under the terms of this Agreement require approval by a Limited Partner Consent, a Limited Partner Consent or otherwise, such resolution shall only be validly adopted if also approved pursuant to such terms.

13 TERMINATION AND LIQUIDATION

13.1 Termination

For so long as there are at least two Limited Partners the death, bankruptcy, insolvency, administration, administrative receivership, dissolution, liquidation or withdrawal of a Limited Partner shall not operate to terminate the Partnership and the estate or trustee in bankruptcy or receiver, administrator 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 13.2, the Partnership shall terminate on the expiry of ten years from the Effective 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:

- 13.1.1 the bankruptcy, insolvency, expulsion, resignation, dissolution, liquidation, administration, administrative receivership, removal or withdrawal of the General Partner (other than pursuant to Clause 13.4), unless the Partnership is reconstituted pursuant to Clause 13.3; or
- 13.1.2 the agreement of the General Partner and of the Limited Partners by a Limited Partner Consent to such termination; or
- 13.1.3 the resignation or removal of the General Partner pursuant to Clause 13.4 or Clause 11.1 (as the case may be) unless, in any such case, the Partnership is reconstituted pursuant to Clause 13.3.

13.2 Extension of Life of the Partnership

Unless otherwise agreed by the Limited Partners (as evidenced by Limited Partner Consent), the life of the Partnership may be extended, by the agreement of the General Partner and of the Limited Partners (as evidenced by a Limited Partner Consent), by up to four additional one-year periods provided that agreement is obtained as aforesaid for each such extension. Any such election shall be without prejudice to the earlier termination of the Partnership for a reason specified in Clause 13.1. The duration of the Investment Period may be extended by the agreement of the General Partner and of the Limited Partners (as evidenced by Limited Partner Consent) by up to two additional one-year periods. For the avoidance of doubt no new Commitments shall be made during an extension of the Partnership.

13.3 Continuation of the Partnership

If the Partnership would otherwise be terminated pursuant to Clause 13.1.1 or 13.1.3 the Partnership may be reconstituted and its business continued pursuant to a Limited Partner 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 13.4, 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 9, 10.1 and 10.14 up to the date of its ceasing to be the General Partner. Notwithstanding any consent granted pursuant to this Clause 13.3, on a reconstitution of the Partnership the Investment Period shall be deemed to have terminated except to the extent approved by a Limited Partner Consent. 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 the Total Commitments for the purpose of any vote, pursuant to this Clause 13.3.

13.4 Removal of the General Partner

- 13.4.1 After the first anniversary of the Effective Date, the Limited Partners may by Limited Partner Consent, remove the General Partner by giving to the General Partner 60 days' written notice. Subject as provided in Clause 13.4.2, 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 an amount equal to the General Partner's Share (or drawings on account thereof) in respect of the six months immediately prior to the date of removal of the General Partner. No further compensation shall be payable.
- 13.4.2 The General Partner may be removed at any time by the Limited Partners by way of Limited Partner Consent without compensation for termination of its office upon the occurrence of a Suspension Event pursuant to Clause 4.5.1(a), 4.5.1(c), 4.5.1(d), 4.5.1(e), 4.5.1(g), 4.5.1(h) or Clause 4.5.1(i).
- 13.4.3 In the event that the General Partner is removed pursuant to Clause 13.4.2, the Founder Partner shall forfeit its entire right to future distributions pursuant to Clause 10.1 (and such future distributions shall be held in reserve by the Partnership until released to a new general partner with the approval of Limited Partners by a Limited Partner Consent).
- 13.4.4 If the General Partner or any Associate of it is removed as General Partner under this or any other Clause, it shall become a Limited Partner in the Partnership in respect of its Interest as an Investor and all obligations and undertakings of the General Partner and any such Associate (other than those arising from being a Limited Partner) to the Partnership and the Investors shall cease with immediate effect provided that nothing herein shall affect the liability of any such General Partner for any act or omission prior to such removal.

13.5 Liquidation of Interests of Partners

- 13.5.1 Save as provided in Clauses 3.1 and 11.6, a Partner shall not have the right to the return of its Capital Contribution except upon the liquidation of the Partnership.

- 13.5.2 Subject to Clause 13.5.6, the General Partner shall not be personally liable to any other Partner for the return of Capital Contributions or Outstanding Loans.
- 13.5.3 Upon termination or liquidation of the Partnership (unless reconstituted under Clause 13.3) no further business shall be conducted 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 liquidating trustee provided however that if the Partnership is terminated for a reason set forth in Clause 13.1.1 or 13.1.3, unless the Partnership is reconstituted pursuant to Clause 13.3, the Limited Partners shall designate some other Authorised Person to act as a liquidating trustee or trustees. In either case the liquidating trustee or trustees shall receive such remuneration for so acting as the Limited Partners (as evidenced by Limited Partner Consent) shall agree.
- 13.5.4 Upon termination of the Partnership, the liquidating trustee or trustees may 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 in accordance with Clause 10 at the Value determined by the liquidating trustee. The liquidating trustee or trustees shall cause the Partnership to pay all debts, obligations and liabilities of the Partnership and all costs of liquidation and shall make adequate provision for any present or future contemplated obligations or contingencies in each case to the extent of the Partnership Assets. The remaining proceeds and assets (if any) shall be distributed amongst the Partners on the basis set out in Clause 10. Partners receiving a distribution of Partnership Assets in specie shall be bound by the provisions of any agreements relating to such Partnership Assets, to the extent such agreements so provide.
- 13.5.5 Upon termination of the Partnership, no Partner shall, subject to Clause 13.5.6, be liable to any other Partner for repayment of such other Partner's Outstanding Loan.
- 13.5.6 Notwithstanding the provisions of Clauses 13.5.2 and 13.5.5 a Partner who has an Outstanding Loan may sue the Partnership in debt for repayment of its Outstanding Loan if:
- (a) repayment of its Outstanding Loan has become due in accordance with Clause 10; and
 - (b) there has been a failure to make such repayment; and
 - (c) 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 Partner suing shall be limited to the gross assets of the Partnership referred to in Paragraph (c).

14 REPORTS AND VALUATION

14.1 Reports

14.1.1 Quarterly Reports

As soon as practicable after and in any event within 30 Business 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 comprising:

- (a) details of the Investments made during the relevant period;
- (b) details of Investments transferred and otherwise disposed of during the relevant period;
- (c) a statement of all Investments and other property and assets of the Partnership together with a brief commentary on the progress of Investments;

- (d) the Manager's unaudited Valuation of each Investment and a portfolio Valuation as at the end of the relevant quarter;
- (e) details of marketing and market development activities undertaken by the Manager in the quarter (by council area);
- (f) a summary of the Investment pipeline development which advises potential new Investments and including the current status of negotiations of such potential new Investments; and
- (g) an executive summary in a form agreed with Invest NI showing the Manager's performance against the KPIs.

The first such report shall be in respect of the period from the Effective Date to the end date of the first full quarter following the Effective Date.

14.1.2 Annual Reports

Annual Consolidated Report

As soon as practicable after and in any event within 30 Business Days of each Accounting Date, the Manager shall prepare and send to each Limited Partner a consolidated report in a form satisfactory to the Limited Partners comprising the information set out in Clause 14.1.1 and an executive summary in a form agreed with Invest NI showing the Manager's performance against the KPIs.

The first such annual report shall be in respect of the period from the Effective Date to the Accounting Date immediately preceding the Effective Date.

Fund Plan

As soon as practicable and, in any event, within 3 months of Effective Date and, thereafter on an annual basis within 30 Business Days of each Accounting Date, the Manager shall prepare and send to each Limited Partner a Fund Plan in respect of the Term.

14.2 Invest NI Audit Requirements

- 14.2.1 The General Partner shall, and shall procure that the Manager shall, permit Invest NI, the Department for the Economy and its agents, the Northern Ireland Audit Office, the European Commission and the European Court of Auditors, any Regulatory Body or their successor bodies or such other bodies to which Invest NI is required to report or is accountable (together "**Reporting Bodies**") from time to time upon giving reasonable notice to enter its business premises and any other premises of the Manager during normal working hours (unless a statutory or regulatory obligation requires entry outside of these hours) to inspect any asset, any accounting record or any other record in respect of any Commitment which has been paid or may become payable by Invest NI under the terms of this Agreement, to speak with the Manager's staff and to review and, if applicable, copy such records to comply with any statutory or regulatory obligation of Invest NI or any of the Reporting Bodies or their respective agents.
- 14.2.2 The General Partner shall also procure that the Manager will also provide to the Limited Partners 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.
- 14.2.3 The General Partner will ensure that all information relevant to the Partnership is retained for disclosure purposes for the Term and 10 years thereafter.

15 ADVISORY BOARD AND INVESTMENT COMMITTEE

15.1 Advisory Board

15.1.1 The Partnership shall have an Advisory Board within the terms of reference set out in Schedule 5 comprising not less than five (5) nor more than seven (7) members including (for as long as Invest NI is a Limited Partner):

- (a) one representative from Invest NI;
- (b) one representative from the Queen's University of Belfast; and
- (c) one representative from the Ulster University.

The Manager shall have the power to appoint all other new members to the Advisory Board in its sole discretion. In addition, from the Effective Date, Invest NI shall have the right for an executive of Invest NI to receive notice of and attend all meetings of the Advisory Board in an observer capacity but such executive shall not be a member of the Advisory Board and therefore shall have no voting or other rights (other than the right to receive notice and attend meetings).

15.1.2 The functions of the Advisory Board shall be as follows:

- (a) to review any potential conflicts of interest in respect of the Partnership;
- (b) to review any question of whether an Investment falls within the Investment Policy of the Partnership;
- (c) to review with the Manager the progress of the Partnership in achieving its objectives;
- (d) to review valuations of Investments; and
- (e) to review the general policies and guidelines of the Partnership.

The members of the Advisory Board shall not take part in the management of the Partnership's business, nor shall they in their capacity as members of the Advisory Board carry on any regulated activity as such term is defined for the purposes of FSMA.

15.1.3 **Convening of Meetings**

The members of the Advisory Board shall be invited by the Manager to attend a meeting at least twice a year or more frequently as the Manager may determine, provided that any member of the Advisory Board may itself convene further meetings. Representatives of the Manager shall be entitled to attend and speak at meetings of the Advisory Board but shall not be entitled to vote in respect of any matters discussed at such meetings.

15.1.4 The quorum for meetings of the Advisory Board shall be three, one of which shall be a representative of Invest NI.

15.1.5 **Operation**

All decisions of the Advisory Board 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 consent. The Manager may require the Advisory Board to poll its members and may disregard in all respects the voting rights and votes of members who decline to exercise their votes within 3 Business Days of written notification from the Manager requiring a poll, for purposes of determining the decision of the majority.

15.1.6 Where the approval or consent of the Advisory Board is required in respect of the acquisition or disposal of any particular Investment, such approval or consent of the Advisory Board only permits, but does not commit, the Partnership to making the Investment or allowing the disposal

to occur. Any such commitment can only be made pursuant to a decision of the Manager in accordance with the terms of this Agreement.

15.2 Investment Committee

15.2.1 The Partnership shall have an Investment Committee, the members of which will include at least one person who is independent of the General Partner, the Manager and their respective Associates, as a member of the Investment Committee. The appointment of each independent person must be approved by Limited Partner Consent. At least one such independent person must attend each Investment Committee meeting.

15.2.2 Where any member of the Investment Committee has or where the Manager believes that any member of the Investment Committee has a conflict of interest, the Manager shall advise the Advisory Board in writing and give such information in relation to the conflict as the Advisory Board may reasonably require.

15.2.3 The function of the Investment Committee shall be as follows:

- (a) to review opportunities for Investments and Follow-On Investments and divestments, and otherwise in Portfolio Companies sourced by the Manager from time to time; and
- (b) to do anything which is reasonably ancillary to any matter falling under Clause 15.2.2(a) above as well as such other matters as are indicated to be the functions for the time being of the Investment Committee by other provisions of this Agreement.

15.2.4 Notwithstanding the provisions of Clause 15.2.2 and acknowledging the Manager's responsibility for investment decisions pursuant to Clause 1.10, the members of the Investment Committee shall not take part in the management of the Partnership's business, nor shall they in their capacity as members of the Investment Committee carry on any regulated activity (as defined for the purposes of FSMA).

16 EXCULPATIONS AND INDEMNITIES

16.1 Exculpation

None of the 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 hereto, or under or pursuant to any Management Services Agreement or other agreement relating to the Partnership or in respect of services as a Nominated Director or member of the Advisory Board or which otherwise arise in relation to the operation, business or activities of the Partnership save in respect of any matter resulting from 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 gross 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.

16.2 Indemnity

The Partnership agrees to indemnify and hold harmless out of Partnership Assets the Indemnified Persons against any and all liabilities, actions, proceedings, claims, costs, demands, damages and expenses (including reasonable 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 Services Agreement or other agreement relating to the Partnership or in respect of services as a Nominated Director or member of the Advisory Board or which otherwise arise in relation to the operation, business or activities of the Partnership provided however that any Indemnified Person shall not be so

indemnified with respect to any matter resulting from their fraud, wilful misconduct, bad faith or reckless disregard for their obligations and duties in relation to the Partnership or 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.

16.3 Advisory Board

No duly appointed member of the Advisory Board and the Limited Partner represented by such member (each an “**Advisory Board Member**”) shall have any liability for any loss to the Partnership or the Partners howsoever arising in respect of services as an Advisory Board Member save in respect of any matter arising from such person’s fraud, negligence or bad faith and each Advisory Board Member shall be indemnified out of the Partnership Assets against any and all liabilities, actions, proceedings, claims, costs, demands, damages and expenses (including reasonable legal fees) incurred or threatened arising out of or in connection with or relating to or resulting from the Indemnified Person having acted as an Advisory Board Member, provided however that an Advisory Board Member shall not be so indemnified in respect of any matter arising from such person’s fraud, negligence or bad faith. Without prejudice to the generality of the foregoing, the General Partner shall be entitled to give indemnities on behalf of the Partnership out of the Partnership Assets to any Advisory Board Member in terms similar to those set out in this Clause 16.3.

16.4 Continuing Effect

For the avoidance of doubt, the indemnities under Clause 16.2 shall continue in effect notwithstanding that the Indemnified Person shall have ceased to act as General Partner or manager or otherwise to provide services to or in respect of the Partnership or to act in any of the capacities described in Clause 16.2.

16.5 Taxation

Each of the Investors shall indemnify each of the General Partner, the Manager and any Associate of either of them and the Partnership against the amount of Taxation for which the General Partner, the Manager, such Associate or the Partnership is liable either on behalf of that Investor or in respect of that Investor’s Interest pursuant to or as referred to in Clause 5.3.11. The Manager shall notify such Investor of such amount having been paid.

17 EXCLUSIVITY AND CONFLICTS OF INTEREST

17.1 Subject as provided in Clause 17.2 the functions and duties which the General Partner and the Manager undertake on behalf of the Partnership shall not be exclusive and the General Partner, the Manager and any Associate of them or any adviser of the Partnership may perform similar functions and duties for others and, without limitation, may act as a general partner, manager or investment adviser in or of other venture capital funds or engage in any other activity and retain any benefit received for so doing provided however that the Manager continues properly to manage the affairs of the Partnership.

17.2 For the duration of the Investment Period, the Manager shall procure that all suitable Investment opportunities within the Investment Policy arising through the Manager, the General Partner or any Associate of either, are first offered to the Partnership on the best available terms.

17.3 The Manager shall procure that no other limited partnership of which it is the Manager shall without the prior written consent of the Advisory Board invest in any Portfolio Company comprising part of the Partnership Assets.

17.4 The Partnership shall not make any Investment to any Portfolio Company in which any of the Manager, the General Partner, any of their Associates, any of their respective directors, officers or employees or any family member of such person, or any funds which any such persons manage or advise, hold securities or have the right to acquire securities.

17.5 The General Partner and Manager shall not, and shall so far as they are legally able to do so pursuant to the relevant investment documentation, procure that none of their Associates or any of their respective directors, officers or employees or any family member of such person shall acquire any securities in any Portfolio Company unless:

17.5.1 otherwise agreed by a Limited Partner Consent; or

17.5.2 where the securities in question are being acquired on the same terms and conditions, and at the same time, as an unrelated third party investor who is also acquiring, or has acquired, securities the cost of which securities is or was (as appropriate) at least 50 per cent of the overall acquisition cost of all such securities being acquired.

18 EXIT AND TRANSITION

18.1 The General Partner shall, and shall procure that the Manager shall (in each case at its own cost), upon request by any of the Limited Partners co-operate with Limited Partners and/or any person appointed as general partner in replacement of the General Partner (“**New General Partner**”) to the extent reasonably required to facilitate (i) the preparation by any of the Limited Partners of any invitation to tender or instruction to tenderers or any of the Limited Partners undertaking due diligence (including in relation to the Partnership, the management services provided pursuant to the Management Services Agreement and employees employed by the Manager or the General Partner in relation to the Partnership (“**Employees**”)) and, for the avoidance of doubt, the provision by the General Partner and the Manager of any information reasonably requested by any of the Limited Partners to assess the applicability or otherwise of TUPE or (ii) the smooth transfer of the Investments from the General Partner to the Limited Partners or any of them, the New General Partner or as directed otherwise by any of the Limited Partners (“**Transferee**”) or (iii) termination of the Partnership in each case which, if requested by any of the Limited Partners, shall include the provision of reasonable information relating to the Partnership, Investments and the Portfolio Companies in which Investments have been made gathered by the General Partner or the Manager. Any such information requested by any of the Limited Partners shall be provided within 7 days of the date of such request. For the avoidance of doubt but subject to the requirements for disclosure by Invest NI as a government body, the General Partner and the Manager shall not be required to disclose any commercially sensitive information in relation to the General Partner or the Manager (as determined by the Limited Partners, acting by a Limited Partner Consent, in their absolute discretion) but the General Partner acknowledges that it is under an obligation to make available to the Limited Partners such information in relation to the Partnership and the Investments in order for the Limited Partners to comply with their procurement obligations and to the Limited Partners pursuant to the requests by any of the Limited Partners referred to in this Clause.

18.2 At the time of providing the information disclosed pursuant to Clause 18.1, the General Partner shall, and shall procure that the Manager shall, warrant the completeness and accuracy of all such information to the Limited Partners and each Limited Partner may assign the benefit of this warranty held by it to any Transferee. The General Partner shall promptly notify the Limited Partners of any material changes to the information provided pursuant to Clause 18.1.

18.3 Howsoever the Agreement is terminated the General Partner shall, and shall procure that the Manager shall, assist and co-operate with the Limited Partners and the Transferee to ensure an orderly transfer of the Investments to the Transferee and/or the completion of any work in progress, if applicable.

18.4 It is the intention of the parties that the Employees shall remain as employees of the General Partner or the Manager, as applicable, and shall not transfer to any of the Limited Partners at any time during the Term or on or after termination of this Agreement.

18.5 None of the Limited Partners accept responsibility, financial or otherwise, for any costs, claims, liabilities, damages or losses howsoever arising out of the employment, termination of employment, redundancy or dismissal of any Employees or other persons engaged by the General Partner or the Manager in relation to the Partnership, the Investments or the Management Services.

18.6 The General Partner undertakes, and shall procure that the Manager undertakes, to each of the Limited Partners (both for themselves and a Transferee) to fully indemnify and hold the Limited Partners and the Transferee harmless from and against any action, award, claim or other legal recourse, complaint, cost, debt, demand, expense, fine, liability, loss, outgoing, penalty or proceeding (including legal and other professional fees and expenses) which any of the Limited Partners may suffer, sustain, incur, pay or be put to arising from or in connection with:

18.6.1 the provision of information by the General Partner and/or the Manager pursuant to Clause 18.1;

18.6.2 the employment of the Employees or the termination of their employment by the General Partner or the Manager;

18.6.3 any failure by the General Partner or the Manager to comply with its legal obligations in respect of any of the Employees;

18.6.4 any failure by the General Partner or the Manager to comply with its legal obligations in relation to the transfer to a third party, by virtue of TUPE, of the employment of any Employee; and/or

18.6.5 the failure of the General Partner or the Manager to comply with its obligations under any of the TUPE regulations.

18.7 The General Partner agrees, and shall procure that the Manager agrees, to co-operate with the Limited Partners and with any Transferee to ensure that any TUPE related obligations will be fulfilled.

18.8 The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to Clauses 18.6 and 18.7 to the extent necessary to ensure that any Transferee shall have the right to enforce the obligations owed to, and indemnities given to, the Transferee by the General Partner or the Manager in its own right pursuant to section 1(1) of the Contracts (Rights of Third Parties) Act 1999.

18.9 Notwithstanding Clause 18.8, it is expressly agreed that the parties may by agreement rescind or vary this Clause 18 without the consent of any other person who has the right to enforce the terms of this Clause 18 notwithstanding that such rescission or variation may extinguish or alter that person's entitlement under that right.

18.10 The General Partner and the Manager each undertake to the Limited Partners that for the twelve months prior to that termination of the Partnership they will have not:

18.10.1 amended or varied (or promised to amend or vary) the conditions of contract of employment or engagement of any of its Staff (other than where such amendment or variation has previously been agreed between the General Partner or the Manager, as applicable, and the relevant member of its Staff in the normal course of business);

18.10.2 terminated or given notice to terminate the employment or engagement of any of its Staff (other than for reasons of misconduct, qualification or capability); and

18.10.3 removed or varied the involvement of any of its Staff from or in the provision of the Services relating to the Partnership or the Management Services other than in the normal course of business.

19 CONFIDENTIAL INFORMATION

19.1 Subject to the remaining provisions of this Clause 19 the Partners shall not, and each Partner shall use all reasonable endeavours to procure that every person connected with or associated with such 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 Invest NI, the Partnership or Portfolio Companies or proposed investments, unless required to do so by law or by a court of law or by the regulations of any relevant stock exchange or the FCA or any other regulatory authority to which any of the Partners or any such person connected or associated with a Partner is subject provided however that in respect of each Partner the foregoing obligation shall not apply to information which:

- 19.1.1 is possessed by such Partner prior to the receipt thereof from the General Partner or the Manager; or
 - 19.1.2 becomes known to the public other than as a result of a breach of such obligations by such Partner; or
 - 19.1.3 the General Partner or the Manager (acting reasonably) believes it is necessary to disclose to enable the Partnership to make any particular Investment.
- 19.2** Notwithstanding Clause 19.1, a Partner shall be entitled to disclose information received by it pursuant to Clauses 7.1 and 14 concerning the business or affairs of the Partnership to:
- 19.2.1 its shareholders;
 - 19.2.2 its bona fide advisers and auditors;
 - 19.2.3 to any governmental, regulatory or tax authorities to which such Partner is accustomed or required to report; or
 - 19.2.4 if the Investor is a fund of funds (or equivalent) to such Investor's investors provided that such investors are bound by an obligation of confidentiality in respect of the use and dissemination of such information.
- 19.3** The Partners and the Manager acknowledge that Invest NI and certain other Limited Partners may be subject to freedom of information legislation including, but not limited to, Freedom of Information Act 2000 and the Environmental Information Regulations 2004 ("**FOI Legislation**") and the Partnership and the General Partner agree to assist and co-operate insofar as is reasonably possible, and to procure that the Manager assists and co-operates insofar as is reasonably possible, with any such Limited Partner to enable such Limited Partner to comply with its obligations under applicable FOI Legislation. Other than in respect of any information described in Clauses 19.1.1, 19.1.2 or 19.1.3 a Limited Partner subject to FOI Legislation shall notify the Manager as soon as reasonably practicable once it becomes aware of a relevant disclosure request from a third party (other than its own shareholders, investors, advisers, auditors or any governmental regulatory or tax authority to which such entity is accustomed or required to report) for confidential information to be provided or disclosed by the Limited Partner to such third party) (a "**Disclosure Request**"). In no event shall the General Partner, the Founder Partner or the Manager respond directly to a request for information pursuant to FOI Legislation unless it is expressly authorised to do so by the Limited Partner to which the Disclosure Request relates or may affect. Each Limited Partner hereby agrees that following its receipt of a request from the Manager it shall use reasonable endeavours to consult with the Manager regarding the defence of such Disclosure Request in accordance with the provisions of the relevant public disclosure laws, statutes, statutory instruments, regulations or policies. The Partnership, the General Partner and the Manager acknowledge that Invest NI and, certain other Limited Partners may be obliged under applicable FOI Legislation to disclose confidential information without obtaining consent from the Manager.
- 19.4** Notwithstanding any other provision of this Agreement, both the Manager and Invest NI shall be entitled to publish the fact and quantum of Invest NI's Commitment at such times and in such manner as the Manager or Invest NI (as appropriate) may decide. The General Partner shall render Invest NI such assistance as Invest NI may reasonably request in connection with any publicity which Invest NI may deem appropriate in respect of the Partnership.
- 19.5** Notwithstanding any other provision of this Agreement Invest NI may:

- 19.5.1 include any information which it receives in relation to any Portfolio Company in which an investment has been made 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 such Portfolio Company;
- 19.5.2 disclose any information relating to the business, investments, finances or other matters of a confidential nature of the General Partner, any other Limited Partners, the Manager, the Partnership, any Investment or potential Investment or Portfolio Company in which an investment has been made or may potentially be made of which it may in the course of its rights and obligations under this Agreement or otherwise have become possessed to any other government department, successor body or transferee of its interest in the Partnership; or
- 19.5.3 disclose confidential and secret information to person(s) as may be notified to the General Partner from time to time to the extent only as is necessary for the purposes of auditing and collating information for the evaluation of the Partnership pursuant to Clause 24 such exercise being commonly referred to as “benchmarking”. Invest NI shall use all reasonable endeavours to ensure that such person(s) keeps the information confidential and does not make use of the information except for the purpose for which the disclosure is made.
- 19.6** The General Partner shall, and shall procure that the Manager shall, ensure that any promotional material relating to the Partnership or an Investment includes a statement in terms or to the effect that the Portfolio Company in which an Investment has been made is supported by Invest NI.
- 19.7** The General Partner warrants, and shall procure that the Manager warrants, to the Limited Partners that it has as at the date of this Agreement put in place a comprehensive and effective information security policy to protect the sensitivity of all confidential information including provision for reasonable archiving appropriate to the content and sensitivity of the confidential information (“**Information Security Policy**”) and an appropriate disaster recovery plan, in line with industry standards to ensure continuation of the Management Services (“**Disaster Recovery Plan**”). As part of the quarterly reports to be provided under Clause 14.1.1 the General Partner shall, and shall procure that the Manager shall, confirm its compliance/non-compliance with such Information Security Policy and Disaster Recovery Plan and, if there have been any incidents of non-compliance within the applicable reporting period, report those incidents of non-compliance to the Limited Partners, together with the steps taken to rectify such incidents and to provide the information security compliance check as part of the annual consolidated report pursuant to Clause 14.1.2. Each of the Limited Partners reserves the right to audit the General Partner’s and the Manager’s compliance with the Information Security Policy at any point during the term of this Agreement. The General Partner confirms that it shall, and shall procure that the Manager shall, grant the Limited Partners all reasonable access on reasonable notice to its premises and staff to carry out any such audit.
- 19.8** Without prejudice to Invest NI’s obligations under the FOI Legislation, the General Partner shall not, and shall procure that the Manager shall not, make any press announcement or publicise this Agreement or any part thereof in any way except with Invest NI’s consent.
- 19.9** Invest NI may require the General Partner to procure that any promotional material relating to the Partnership includes a statement in terms of or to the effect that the Partnership is supported by Invest NI.

20 COMPLIANCE WITH THE ACT AND OTHER LAWS

- 20.1** The General Partner shall comply with all registration and other requirements of the Act so as to ensure, so far as it is able, that the liability of the Limited Partners is and at all times remains limited as provided in the Act.
- 20.2** The General Partner shall, or shall procure that the Manager shall, manage the business and affairs of the Partnership in accordance with the terms of this Agreement and venture capital industry practice and in compliance with the FSMA.

- 20.3** The General Partner shall comply with the relevant statutory provisions from time to time in force in Northern Ireland imposing obligations in relation to discrimination on the grounds of religious belief, political opinion (including in relation to Section 75 of the Northern Ireland Act 1998), racial group, marital status, age, sexual orientation, gender, disability and having dependants.
- 20.4** The General Partner shall procure that the Manager will, as part of its due diligence exercise in respect of any potential Portfolio Company, make reasonable enquiries into such Portfolio Company's compliance with all current Northern Ireland legislation regarding non-discrimination in employment, 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, the Agency Workers Regulations (Northern Ireland) 2011 and the Employment Equality (Age) Regulations (Northern Ireland) 2006 (together the "**Non-Discrimination Legislation**") and such other enquiries as may be required in order to confirm, to the Manager's reasonable satisfaction that such Portfolio Company has adopted employment and other policies which have due regard to such Non-Discrimination Legislation.
- 20.5** The General Partner shall procure that the Manager will use reasonable endeavours to incorporate into the documentation governing the Partnership's Investment into any Portfolio Company representations and warranties to the effect that such Portfolio Company has not, save as otherwise disclosed in writing to the Manager, been found by a court of law or other legal body to have breached any of the provisions of the Non-Discrimination Legislation and has not been the subject of any successful claim pursuant to the Non-Discrimination Legislation.
- 20.6** For so long as the Partnership holds an Investment in any Portfolio Company or has a representative appointed as a director on the board of such Portfolio Company, the Manager will actively encourage such Portfolio Company to formally adopt employment practices consistent with the Non-Discrimination Legislation.
- 20.7** For so long as the Partnership holds an Investment in any Portfolio Company or has a representative appointed as a director on the board of such Portfolio Company, the General Partner shall procure that the Manager will inform Invest NI as soon as reasonably possible in the event that it becomes aware of any breach or alleged breach by the Portfolio Company of the provisions of the Non-Discrimination Legislation giving rise to a claim against the Portfolio Company.
- 20.8** The General Partner further agrees that for so long as the Partnership holds an Investment in any Portfolio Company or has a representative appointed as a director on the board of such Portfolio Company that it will procure that the Manager will seek to receive regular updates as to any claim made against such Portfolio Company alleging a breach of the provisions of the Non-Discrimination Legislation.
- 20.9** Invest NI acknowledges that the Manager shall not be required to make a disclosure pursuant to Clause 19.7 above in the event that to do so would, in the written opinion of legal counsel to the Manager, prejudice the position of the Portfolio Company in remedying such breach or in defending a claim arising from an alleged breach, or if such disclosure would be a breach of applicable law or of any legitimate confidentiality restrictions. Invest NI further agrees that, where such a disclosure has been made, it will have due regard to any confidentiality obligations under which the Portfolio Company or the Manager is operating and will not take any action which might prejudice the best interests of the Portfolio Company, the Partnership or the other Limited Partners.

21 STATE AID AND ERDF

- 21.1** The General Partner shall, and shall procure that the Manager shall, ensure that all Investments comply with the Block Exemption, for as long as it is applicable in the UK and to the Investments and thereafter comply with any successor or replacement financial support or legislation regulations in the UK and/or Northern Ireland.
- 21.2** The General Partner shall procure that the Manager shall ensure that it complies with the ERDF Publicity Guidelines and any successor guidelines applicable in the UK or to the Investments and it shall use all reasonable endeavours to ensure that all Portfolio Companies comply with the ERDF Publicity Guidelines or any successor guidelines applicable in the UK or to the Investments from the date upon which they receive an Investment.
- 21.3** The General Partner shall procure that the Manager will notify all Portfolio Companies, prior to the first Investment in each such Portfolio Company, that the Partnership is partially funded from a government source.
- 21.4** The General Partner confirms that it has obtained its own advice in respect of the rules or regulations relating to State Aid not applying to any of the Commitments or any Investments.
- 21.5** Notwithstanding any other provision of this Agreement, if required as a result of a decision of the Commission of the European Communities or as a result of any other obligation under European law in relation to State Aid or any other obligation under legislation or regulations in the UK and/or Northern Ireland in respect of financial support, Invest NI may at any time withhold payment of and/or require repayment of any or all of General Partner Share if a State Aid issue arises in relation to the Partnership or any of the Investments.

22 ANTI-BRIBERY AND CORRUPTION

- 22.1** The General Partner shall, and shall procure that the Manager shall:
- 22.1.1 not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010;
- 22.1.2 comply with all applicable laws, statutes, regulations and codes of practices relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (“**Legal Requirements**”);
- 22.1.3 comply with Invest NI’s Anti-bribery Policy, as may be updated from time to time (“**Relevant Policy**”);
- 22.1.4 not do, or omit to do, any act that will cause or lead Invest NI to be in breach of any relevant Legal Requirements or Relevant Policy;
- 22.1.5 have and maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures to ensure compliance with the Legal Requirements;
- 22.1.6 promptly report to the Limited Partners any request or demand for any undue financial or other advantage of any kind received by the Manager in connection with the performance of this Agreement; and
- 22.1.7 provide such supporting evidence of compliance with the Legal Requirements as any of the Limited Partners may reasonably request.
- 22.2** The General Partner shall ensure that any Associate or any other person associated with the General Partner who is performing services in connection with this Agreement does so only on the basis of a written contract which includes terms equivalent to those imposed on the Manager in this Clause 22. The General Partner shall be responsible for the observance and performance by such persons of such terms.

- 22.3** The General Partner shall not, and shall procure that the Manager shall, not offer or give, or agree to give, to Invest NI or any other public body or any person employed by or on behalf of Invest NI or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this Agreement or any other agreement with Invest NI or any other public body, or for showing or refraining from showing favour or disfavour to any person in relation to this Agreement or any such agreement.
- 22.4** The General Partner warrants, and shall procure that the Manager warrants, that it has not paid commission or agreed to pay commission to Invest NI or any other public body or any person employed by or on behalf of Invest NI or any other public body in connection with this Agreement.
- 22.5** The General Partner shall, and shall procure that the Manager shall, indemnify Invest NI against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by, or awarded against, Invest NI as a result of any breach of this Clause by the General Partner or the Manager.
- 22.6** For the purpose of this Clause, the meaning of adequate procedures and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively.

23 DATA PROTECTION

- 23.1** Each of the General Partner and the Founder Partner shall, and shall procure that the Manager shall, comply with all of its obligations under the Data Protection Legislation, which arise in connection with this Agreement and the Management Services Agreement and/or the Partnership. Without limiting the generality of the foregoing, the General Partner shall, and shall procure that the Manager shall, procure that it and its Associates and any of their employees shall, be subject to obligations of confidentiality in relation to the personal data processed in connection with this Agreement and, in providing information to the Limited Partners under this Agreement, comply fully with the applicable requirements of the Data Protection Legislation.
- 23.2** Each party to this Agreement hereby acknowledges and agrees that for the purposes of the Agreement, each is a Controller of personal data in their own right and on an autonomous basis. As such:
- 23.2.1 they are not “joint controllers” as that term is defined by Article 26 of the GDPR; and
- 23.2.2 each party shall be obliged, independently of the actions of the other parties, to comply with the requirements of the Data Protection Legislation as regards the processing of personal data under the terms of the Agreement.
- 23.3** Notwithstanding the status of the relationship set out at Clause 23.2, each party acknowledges that the parties will disclose to each other Shared Personal Data.
- 23.4** The General Partner shall comply with all the obligations imposed on a Controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by the General Partner shall, if not remedied within 30 days of written notice from Invest NI, give grounds to Invest NI to terminate the Agreement with immediate effect.
- 23.5** The General Partner shall, and shall procure that the Manager shall, not transfer any personal data received pursuant to the Agreement outside the EEA unless the General Partner or Manager (as appropriate) ensures that: (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 GDPR; or (iii) one of the derogations for specific situations in Article 49 GDPR applies to the transfer.

- 23.6** The General Partner shall, and shall procure that the Manager shall, ensure that it has in place appropriate technical and organisational measures to ensure the security of personal data, and to guard against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, the personal data and shall:
- 23.6.1 promptly inform Invest NI about the receipt of any data subject access request relating to this Agreement or the Management Services Agreement;
 - 23.6.2 comply with any such data subject requests within the timescales required by the Data Protection Legislation;
 - 23.6.3 in so far as such assistance is necessary to ensure that Invest NI can comply with its own obligations under the relevant Data Protection Legislation, assist Invest NI, at the cost of the Manager, 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;
 - 23.6.4 at the written direction of Invest NI, delete or return Shared Personal Data and all copies thereof to Invest NI on termination of the Agreement (and procure that the Manager does likewise) unless required by law to store the personal data;
 - 23.6.5 use technology compatible with that of Invest NI for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;
 - 23.6.6 maintain complete and accurate records and information to demonstrate its compliance with this Clause 23 and allow for audits by Invest NI or Invest NI's designated auditor (and procure that the Manager does likewise); and
 - 23.6.7 provide Invest NI with contact details of at least one employee of the General Partner and the Manager as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the procedures to be followed in the event of a data security breach and the periodic review of the General Partner's and the Manager's compliance with the Data Protection Legislation should Invest NI consider it necessary to do so for any reason.
 - 23.6.8 provide the Limited Partners with such information as the Limited Partners may reasonably require to satisfy itself that the General Partner and/or the Manager is/are complying with its/their obligations under the Data Protection Legislation;
 - 23.6.9 promptly (and in any event, within 72 hours) notify the Limited Partners of any breach of security measures to be put in place pursuant to this Clause and any actual or suspected personal data breach (as defined in the GDPR);
 - 23.6.10 ensure that any personal data provided to the Limited Partners may be processed by the Limited Partners for the purposes contemplated by this Agreement, the Management Services Agreement and/or otherwise under the Partnership, in a lawful, fair and transparent manner and in compliance with all relevant Data Protection Legislation (including, without limitation, ensuring the accuracy of such personal data and adequately notifying relevant data subjects of the possibility of, reasons for, extent of and basis of such transfer); and
 - 23.6.11 ensure it does not knowingly or negligently do or omit to do anything which place any of the Limited Partners in breach of their respective obligations under the Data Protection Legislation.
- 23.7** The General Partner shall, and shall procure that the Manager shall, indemnify Invest NI against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties, fines and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Invest NI arising out of or in connection with the breach of the Data Protection Legislation by the General Partner or its employees or agents (in respect of indemnification by the General Partner) or the Manager or its employees or agents (in respect of indemnification by the Manager).

24 EVALUATION

24.1 The General Partner's performance under this Agreement shall be subject to review and consideration by the Department for the Economy and the Department of Finance (or their successor bodies) as part of an overall review of the Partnership as follows at the option of Invest NI:

EVALUATION	TIMING
First Interim Evaluation	Any time in the period between the date 6 months from the Effective Date and the fifth anniversary of the Effective Date
Second Interim Evaluation	At any time after the fifth anniversary of the Effective Date
Post-Project Evaluation	At any time after the tenth anniversary of the Effective Date
Other Interim Evaluation(s)	At any time notified to the General Partner by Invest NI pursuant to Clause 4.5.3, 4.5.6, 4.6.2 or otherwise

24.2 The General Partner shall, and shall procure that the Manager shall, co-operate fully with any such evaluation, to the extent requested by Invest NI, implement the recommendations of the evaluation fully and comply with any reasonable requests to amend this Agreement and the Management Services Agreement submitted by Invest NI following any such interim evaluation, including:

24.2.1 subject to Clauses 24.3 to 24.4 inclusive, a reduction of:

- (a) the total funds to be advanced by Invest NI as the Invest NI Commitment and the other Investors as to their Commitment; and
- (b) the General Partner's Share as a result of a reduction of the Total Commitments,

subject to a Limited Partner Consent to such reduction and in the event of such a reduction, the Total Commitments and the General Partner Share shall be reduced accordingly for the remaining period of the Term; or

24.2.2 subject to Clauses 24.3 and 24.4, ceasing to reinvest in the Partnership any Outstanding Loan pursuant to Clause 4.1.1(b).

24.3 For the avoidance of doubt, neither Invest NI nor any of the Reporting Bodies shall have liability to the General Partner or the Manager in respect of the findings of any such evaluations and the General Partner hereby waives, and the General Partner shall procure that the Manager waives, any and all claims that they may have at any time in respect of any and all losses (including, without limitation, consequential loss, loss of profit and loss of opportunity) they may sustain as a result of or in connection with the findings or recommendations of any such evaluations.

24.4 Notwithstanding the above but subject to the provisions at Clause 4.5.6, there shall be no reduction or cessation of re-investment in the Partnership of Outstanding Loans prior to the third anniversary of the Term.

25 REPUTATION

Each of the General Partner and the Founder Partner shall not, and shall procure that the Manager shall not, do or omit to do, anything in relation to this Agreement or in the course of its activities, which may bring the standing of the Partnership or any of the Partners into disrepute or attract adverse publicity for any such persons. Where the General Partner

becomes aware of any matter which may bring the standing of any of the Limited Partners into disrepute or attract adverse publicity, the General Partner shall notify the relevant Limited Partner(s) of that matter within 10 Business Days upon it becoming so aware.

26 VARIATION OF PARTNERSHIP AGREEMENT

26.1 This Agreement and the Investment Policy may only be amended (whether in whole or in part) either in accordance with Clause 26.2 or by the written consent of the General Partner and of the Limited Partners by a Limited Partner Consent, provided however that no such variation shall be made (other than in accordance with Clause 26.2) which:

26.1.1 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

26.1.2 otherwise materially adversely affects the rights and interests of the Manager or 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 and provided further that no variation may be made to this Clause 26.1 without the unanimous consent of all Partners.

26.2 Notwithstanding Clause 26.1 this Agreement may be amended by the General Partner without the consent of the Founder Partner or the other Limited Partners to cure any ambiguity or correct or supplement any provision hereof which is incomplete or inconsistent with any other provisions hereof or correct any printing, stenographic or clerical error or omissions, provided that such amendment does not adversely affect the interest of any Limited Partner in any material respect.

27 NOTICES

27.1 Notices which may be or are required to be given hereunder by any party to another shall, unless otherwise stated herein, be in writing and shall be deemed to have been properly given if delivered in person or if sent by express courier service or by email, to the relevant party at the address given in this Agreement or such other address as may from time to time be designated by any party hereto by notice addressed to the General Partner (in the case of notice by the Limited Partners) and to each Limited Partner (in the case of notice by the General Partner or the Manager). The first addresses for the General Partner, the Manager and Invest NI shall be as follows:

General Partner

Address: •

Email: •

Manager

Address: •

Email: •

Invest NI

Address: •

Email: •

Any notice will be effectively served and shall be deemed to be received:

- 27.1.1 on the day of receipt where any hand-delivered letter is delivered on a Business Day before or during normal working hours;
- 27.1.2 on the following Business Day, where any hand-delivered letter is delivered either on a Business Day after normal working hours or on any other day;
- 27.1.3 on the second Business Day following the day of posting from within the United Kingdom of any letter sent by post office inland first class recorded delivery mail postage prepaid;
- 27.1.4 on the third Business Day following the day of posting to an overseas address of any prepaid registered letter; or
- 27.1.5 on the following Business Day where any email is transmitted either on a Business Day after normal working hours or on any other day.
- 27.2** Notice will not be validly served if sent by facsimile.

28 LANGUAGE

All written and oral communications made pursuant to this Agreement, the Management Services Agreement, any Side Letters, and all documents referred to in such agreements shall be in English.

29 AGENT FOR SERVICE OF PROCESS

- 29.1** Each of the Investors not resident in the United Kingdom shall, by signing a Deed of Adherence be treated as having appointed the General Partner as its agent for the service of process in Northern Ireland for any matter or dispute arising out of or in connection with this Agreement (other than a matter or dispute to which such Investor and the General Partner are opposing parties), service upon whom shall be deemed completed whether or not forwarded to or received by the relevant appointer. Without prejudice to the foregoing, the General Partner shall, forthwith upon being in receipt of service of process in its capacity as such agent, send a copy of all documents so served on it by courier to the relevant appointer.
- 29.2** Nothing contained in this Agreement shall affect the right to serve process in any other manner permitted by law or the right to bring proceedings in any other jurisdiction for the purposes of the enforcement or execution of any judgement or other settlement in any of the courts.

30 AUDITORS

- 30.1** The Auditors may resign from office or be removed at any time by the Manager.
- 30.2** 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 a statement of any such circumstances.
- 30.3** The Manager shall appoint such firm of Chartered Accountants which is an internationally recognised accounting firm as it may think fit to fill any vacancy arising in the office of the Auditors to the Partnership provided that it has obtained Limited Partner Consent in advance of the appointment.

31 NON-RECOGNITION OF TRUST ARRANGEMENTS

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.

32 AGREEMENT BINDING UPON SUCCESSORS AND ASSIGNS

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 hereto.

33 VALUE ADDED TAX

All amounts payable pursuant to this Agreement shall unless otherwise stated be inclusive of any VAT, if applicable, and the Partnership shall be responsible for any VAT which may be payable including any VAT on any fee payable to the Manager in respect of the Partnership.

34 ENTIRE AGREEMENT

34.1 This Agreement, the documents referred to in it, the Contract Notice, the Instruction to Tenderers, the Briefing Notes and the Bidding Materials constitutes the whole Agreement between the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of this Agreement.

34.2 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 Instruction to Tenderers or the Bidding Materials. 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.

34.3 Nothing in this Clause shall limit or exclude any liability for fraud.

35 PRIORITY OF DOCUMENTS

In the event of, and only to the extent of, any conflict between these conditions of contract and any documents referred to herein, the conflict shall be resolved in accordance with the following order of precedence:

35.1 this Agreement;

35.2 any other documents referred to in this Agreement (other than the Contract Notice, the Instructions to Tenderers, the Briefing Notes and the Bidding Materials);

35.3 the Contract Notice;

35.4 the Instructions to Tenderers;

35.5 the Briefing Notes; and

35.6 the Bidding Materials.

36 EXECUTION IN COUNTERPART

This Agreement may be executed in any number of counterparts, each of which 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.

37 GOVERNING LAW AND JURISDICTION

This Agreement and the rights, obligations and relationships of the parties hereto under this Agreement shall be governed by and construed in accordance with the laws of Northern Ireland and all the parties irrevocably agree that the courts of Northern Ireland are to have exclusive

jurisdiction to settle any disputes which may arise out of or in connection with this Agreement or the acquisition of Commitments, whether or not governed by the laws of Northern Ireland, and that accordingly any suit, action or proceedings arising out of or in connection with this Agreement 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 the subject matter hereof may not be enforced in or by such court.

38 DISPUTE RESOLUTION

38.1 The parties will attempt in good faith to negotiate a settlement to any dispute between them arising out of, or in connection with, the Agreement. If the dispute cannot be resolved by the parties within a reasonable period, the dispute may, if thought appropriate and by agreement between the parties, be referred to a neutral adviser or mediator (“**Mediator**”). If they are unable to agree a Mediator or if the chosen Mediator is unable or unwilling to act, either party will be able to apply to an appropriate mediation provider to appoint a Mediator. Within 10 Business Days of appointing the Mediator, the parties will meet with the Mediator to agree a procedure for negotiations.

38.2 All negotiations connected with the dispute will be conducted in confidence and without prejudice to the rights of the parties in any further proceedings. The parties agree to be bound by any written agreement once signed by all parties. If the parties fail to appoint a Mediator or fail to reach agreement within one month of the Mediator being appointed, either party may exercise any remedy that it has under this Agreement.

38.3 The performance of this Agreement shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the General Partner shall and shall procure that the Manager (or employee, agent, supplier or sub-contractor) shall comply fully with the requirements of the Agreement at all times.

38.4 Except as otherwise expressly provided by this Agreement, all remedies available to any 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 or a remedy to the exclusion of other remedies.

39 NO RIGHT TO PARTITION

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.

40 SEVERABILITY

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.

41 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

This Agreement is expressed to be for the benefit of the Manager and any Substitute Investor admitted to the Partnership and executing a Deed of Adherence, but save as aforesaid or as expressly provided for in this Agreement, nothing in this Agreement confers any right on any person (other than the parties hereto) pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.

42 WAIVER

- 42.1** 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.
- 42.2** 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.
- 42.3** 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.
- 42.4** Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

43 REPRODUCTION OF DOCUMENTS

This Agreement and all documents relating thereto, including, without limitation, 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, microfilm, micro card, miniature photographic 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, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence.

44 DEED

It is the intention of the parties that this Agreement is entered into as a deed.

SCHEDULE 1
DRAWDOWN NOTICE

TO: ●
FROM: ● (the “**Manager**”)
DATE: ●

Dear Sir/Madam

(the “**PARTNERSHIP**”)

1. We refer to the agreement dated ● constituting the Partnership (the “**Partnership Agreement**”) and to your commitment to the Partnership of ● Capitalised terms defined in the Partnership Agreement shall have the same meaning in this letter except where the context otherwise requires.
2. This is a Drawdown Notice as referred to in Clause 4.1.1 of the Partnership Agreement.
3. We hereby give you notice, pursuant to Clause 4.1.1 of the Partnership Agreement, that you are required to advance a Loan Commitment equal to ● in addition to your Capital Contribution of ●, within 10 Business Days of the date hereof.
4. The Loan Commitment and Capital Contribution advanced pursuant to this Drawdown Notice should be sent by telegraphic transfer to the following account:

●

Sort Code: ●

Account Number: ●
5. It is intended that the Loan Commitment will be applied by the Partnership in the manner set out in the attached Schedule.

Yours faithfully

for and on behalf of

●

SCHEDULE TO DRAWDOWN NOTICE

Current Cash Balance	XX
Planned investment in: <u>company name</u>	XX
To cover the General Partner's Share	XX
To cover other costs / fees / working capital	XX
Funding requirement – total drawdown	<hr/> XX <hr/>

SCHEDULE 2

INVESTMENT POLICY

1. FOCUS OF THE FUND

The general focus of the Partnership will be on technology and innovative businesses in their early and seed stage, adopting a strategic approach to identify prospects to build project value and achieve exits to maximise returns to the Partnership, including a focus on the following priority sectors:

- Advance manufacturing, materials and engineering (including materials handling);
- Digital and creative technologies;
- Life and health sciences;
- Cyber security;
- Precision medicine; and
- Big data/internet of things/analytics.

However, the Manager's priority in assessing opportunities will remain to certify good seed and early stage investments which may lead to Series "A" investment deals – subscription rounds with participation of Commercial Venture Capital Investors.

2. FOLLOW-ON INVESTMENTS

Follow-on Investment will be made by the Partnership where the Manager believes that there is a value in avoiding early dilution and are subject to the investment restrictions contained in Clauses 1.9 and 1.10 and the KPIs.

3. GENERAL INVESTMENT OBJECTIVES

The general objective for the Partnership is to invest in Northern Ireland in a range of technology sectors and innovative businesses that exhibit significant growth potential and to hold the Investments until market success adds demonstrable value.

4. KEY INVESTMENT CRITERIA

4.1 The Manager will at all times invest in a manner which is consistent with the Investment Policy and objectives and in accordance with the terms of this Agreement and the commitments and representations given in the Bidding Materials. In the event of conflict between the provisions of this Agreement and for the Management Services Agreement and to provisions of the Bidding Materials, the provisions of the Agreement and the Management Services Agreement shall prevail.

4.2 Subject to the terms of this Agreement (including, for the avoidance of doubt, the Investment Policy), the Manager has absolute discretion with regard to Investment decisions and management of Portfolio Companies.

4.3 The Manager will seek to:

- identify Investments with the potential to generate high returns yet which also represent manageable risks, typified by export/global growth prospects and a scalable business model;
- invest in businesses where the entry price is attractive and where clear exit routes can be identified;

- co-invest with private investors; and
 - back experienced, if not complete, management teams.
- 4.4** Portfolio Companies must be SMEs and must be limited companies incorporated and resident in or established in the Investment Area or which have substantial operations based in the Investment Area.
- 4.5** Follow-On Investments may be made in certain quoted companies with the prior written consent of the Advisory Board.
- 4.6** The Manager is required to comply with the Block Exemption and must not invest in Portfolio Companies in a manner which contravenes the Block Exemption.
- 4.7** The Manager must not invest in any Portfolio Company operating in any industry for which financial support (including State Aid) is prohibited by any European Union directives or regulations or any applicable UK or Northern Ireland legislation or regulations.
- 4.8** The Manager must not invest in any Portfolio Company that carries on any of the following businesses:
- the decommissioning or the construction of nuclear power stations;
 - investment to achieve the reduction of greenhouse gas emissions from activities listed in Annex 1 to Directive 2003/87/EC;
 - the manufacturing, processing and marketing of tobacco and tobacco products;
 - undertakings in difficulty, as defined under State Aid rules;
 - investment in airport infrastructure unless related to environmental protection or accompanied by investment necessary to mitigate or reduce its negative environmental impact;
 - fishery and aquaculture sections supported by European Fisheries Fund;
 - primary production, processing and marketing of agricultural products, supported by the European Agricultural Fund for Rural Development;
 - coal, steel and shipbuilding sectors;
 - the synthetic fibres sector;
 - generalised (school age) education;
 - banking and insurance companies;
 - defence and safety; and/or
 - retail business (supporting or refurbishing retail facilities).
- 4.9** The Manager must when deciding whether or not to invest in any potential Portfolio Company, have regard to the reputation of such potential Portfolio Company and all Associates of such potential Portfolio Company and all officers, directors, shareholders, agents, partners and employees of such potential Portfolio Company and all officers, directors, shareholders, agents, partners and employees of such potential Portfolio Company's Associates and whether the investment in such potential Portfolio Company could be detrimental to the reputation of Invest NI and the Manager shall not invest in any such Portfolio Company unless, in its reasonable opinion, no such detriment would occur.
- 4.10** The Manager must not invest in any Portfolio Company where, based on the business plan of the relevant Portfolio Company provided to the Manager prior to making an Investment, there

may be a significant risk of displacing domestic competitor's sales with no net increase in employment or other economic activity. In some cases a modest degree of displacement may be acceptable, but more substantial displacement may constitute grounds to not proceed with an Investment.

5. PORTFOLIO MANAGEMENT

5.1 The Manager aims to build a balanced and diversified portfolio based on:

- an Initial Investment range of £50,000 to £750,000;
- a maximum aggregate Investment(s) of £2,000,000 in any one Portfolio Company;
- investment in 50 to 60 Portfolio Companies; and

[Note: Commitments made by the Bidder in the Methodology section of its tender submission will be restated here]

5.2 Supporting portfolio management, the Manager will participate in the wider development of venture capital in the Northern Ireland region including:

- engagement with investors;
- market development to promote access to capital;
- active engagement in adding value to the strategic and operational management of investee companies;
- develop a marketing strategy to support the delivery of the Investment Policy and KPIs, including:
 - promotion of interaction with SMEs and the local business ecosystem across a variety of sectors and spanning all NI Council areas so as to maintain maximum geographic coverage within Northern Ireland; and
 - promotion of interaction with other funders/intermediaries/stakeholders to deliver a pipeline of Investment prospects across the Northern Ireland region.
- actively promote Investment activity and maximise coverage of same by way of a mix of online and offline channels; and
- develop and improve the awareness and understanding of early and seed stage equity investment for SMEs in Northern Ireland.

[Note: Commitments made by the Bidder in the Methodology section of its tender submission will be restated here]

SCHEDULE 3

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 4
RESOURCE TABLE

NAMED EXECUTIVE		% OF TIME DURING THE INVESTMENT PERIOD	% OF TIME POST-INVESTMENT PERIOD
1			
2			
3			

SCHEDULE 5

ADVISORY BOARD TERMS OF REFERENCE

1. THE ADVISORY BOARD

The Advisory Board will be expected to bring a balance of experienced perspectives and views to provide advice for the benefit of the Manager.

The Advisory Board will consist of not more than five persons (each of whom for the purposes of this Schedule is referred to as a "Member") and may, from time to time, be supplemented by co-opted Members. Invest NI, Ulster University and the Queen's University of Belfast shall each be entitled to appoint one representative on the Advisory Board. Alongside the wider criteria for membership, the Manager will promote equality of opportunity between persons of different religious belief, political opinion, age, racial group, marital status and sexual orientation as well as individuals with or without a disability. A balance of expertise and experience from professional, industrial and commercial backgrounds will be sought.

Appointment of Members will be in a personal capacity and based on merit. Candidates must demonstrate all or most of the following features, capabilities and experience:

- be widely respected and active in commerce, industry, law, finance or public service;
- have a knowledge and understanding of business and economic development;
- be interested in, and ideally have personal experience of entrepreneurship;
- ability to recognise early stage investment potential;
- ability and confidence to deliver clear advice;
- ability to work effectively within a committee framework;
- ability to think creatively;
- independence of mind;
- strategic vision;
- good judgement;
- ability to apply the principles of corporate governance and risk management;
- willingness to devote the necessary time and effort;
- awareness of seven principles of public service; and
- reliability, integrity and an enthusiasm for team working.

Appointment Terms

Members will be appointed under the terms of their appointment letter, which shall contain confidentiality and non-use provisions.

Members will be expected to attend Advisory Board meetings usually held in Belfast but occasionally at locations elsewhere in Northern Ireland. There may be some work outside these meetings, however the typical workload would not be expected to exceed on average two days per quarter in total for most Members, and in some cases it may be less than this. The term of Membership is five years, with the possibility of re-appointment thereafter on an annual basis up to a maximum term of service of ten years.

Membership is not remunerated unless the General Partner determines otherwise with Limited Partner Consent; however reasonable travel and subsistence costs and any dependent carer expenses will be reimbursed, in accordance with the Invest NI Travel & Subsistence Guidelines and any such costs and expenses shall be paid by the General Partner out of the General Partner's Share.

Meetings

Meetings of the Advisory Board shall be held on a quarterly basis and at such other times as the Manager shall determine. Relevant papers relating to each meeting shall be provided to Members at least five days prior to any meeting.

The Advisory Board shall appoint one of its Members to fulfil the office of chairman and will be quorate when three Members are present, including the chairman and a representative of Invest NI.

The Manager will provide information on investments via the quarterly report, which will contain details of each Portfolio Company, the product or service to be offered, the market, the IP position, the business and revenue models, the funding requirement and prospective exit route.

Decision Making

The Advisory Board is a monitoring/advisory body and as such it will have an important consultative role in the Manager's deliberations. However, it must be understood that the Investment Committee will make all investment decisions. As such, Investors are relying upon the ability of the Manager to arrange Investments and to take decisions in relation to Portfolio Companies.

The Advisory Board shall not be entitled to take part in the operation or the management of the Partnership funds ("**Fund**") or to provide investment advice or carry on any form of regulated activity for the purposes of the Financial Services and Markets Act (2000).

Consultative Role

The Advisory Board will monitor the performance of the Fund, provide strategic input to marketing and deal flow and periodically review and, if necessary, amend general policies and guidelines. It will also advise on strategy at point of exit, particularly towards the end of the life of the Fund.

The Advisory Board will be available, among other things, to be consulted on local market developments and advise on any question of whether a prospective Investment falls within the Investment Policy.

Probity

Appointees must be committed to the principles and values of public service. These principles are Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

Conflict of Interests

It is possible that conflicts of interest will arise. Within the Manager there will be prompt internal disclosure of conflicts to permit their proper management and to ensure that Manager's investment committee decision making processes are fair and in the interest of the Partnership. Conflicts or potential conflicts will be managed by the Manager pursuant to the terms of the Management Services Agreement and in accordance with FCA principles of fairness and the requirements of the FCA Rules.

Where a conflict of interest arises that cannot be dealt with by the Investment Committee it must be referred to the Advisory Board. The Advisory Board may recommend a series of actions including modifications to an Investment proposal that would remove reservations about any conflict of interest.

No employees of the Manager or their related parties will be permitted, in a personal capacity, to invest in, have a material interest in or receive fees from any Portfolio Company.

Conflicts of Interest Relating to Advisory Board members

Although the Advisory Board is a consultative body only, each Member will be required to make annual declarations of business and other interests.

If a Member is required to consider a matter in which he or she has a material interest they shall provide the Chairman of the Advisory Board with full disclosure as soon as is practical and within five days of receipt of information. A conflicted Member shall not be precluded from advising on an investment opportunity provided always that he or she has declared their position in advance. However, where a conflict of interest is under consideration they shall be excluded from taking part in the Advisory Board's determination of such conflict of interest.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

EXECUTED as a **DEED** the day and year first before written

[Note: Execution clauses to be updated once identity of all parties is known]

EXECUTED as a **DEED**

by ●

acting by

[Name of Director] a director

Director

and ***[Name of Director or Secretary]***

[a director OR its secretary]

Director/Secretary

EXECUTED as a **DEED**

by ●

acting by

[Name of Director] a director

and ***[Name of Director or Secretary]***

Director

[a director OR its secretary]

Director/Secretary

EXECUTED as a **DEED**

by **INVEST NORTHERN IRELAND**

acting by its Authorised Representative

Authorised Representative

Witnessed by:

Name:

Occupation:

Address:
