

**Investment Management Agreement**  
**CENTAUR EIS Evergreen Fund**  
**15th October, 2019**



This Investment Management Agreement (the “Agreement”) sets out the terms and conditions for the **CENTAUR EIS Evergreen Fund (“Fund”)** established for the Closing Dates specified in the Application Form (to which this is attached) and on acceptance of an Investor’s Application Form by the Manager, will constitute a binding agreement between such Investor and the Manager from the date of such acceptance.

This Agreement is made between **Ascension Ventures Ltd** (FRN: [833108](#)) and **you** (the “Investor”).

**1. Definitions**

1. This Agreement employs the same defined terms as are found in the Definitions section in the Fund Information Memorandum.
2. Words and expressions defined in the FCA Rules which are not otherwise defined in or for the purposes of this Agreement shall, unless the context otherwise requires, have the same meaning in this Agreement.
3. Any reference to a statute, statutory instrument or to rules or regulations shall be references to such statute, statutory instrument or rules and regulations as from time to time amended, re-enacted or replaced and to any codification, consolidation, re-enactment or substitution thereof as from time to time in force.
4. References to the singular only shall include the plural and vice versa.
5. Unless otherwise indicated, references to Clauses shall be to Clauses in this Agreement.
6. Headings to Clauses are for convenience only and shall not affect the interpretation of this Agreement.

**2. Investing in the Fund**

- 2.1. By signing the declaration contained in the Application Form, the Investor agrees to be bound by the terms and conditions of this Agreement.
- 2.2. The Investor hereby appoints the Manager, on the terms set out in this Agreement, to manage his/her cash and investments within the Fund collectively with those of other Investors. The Manager agrees to accept its appointment and obligations on the terms set out in this Agreement.
- 2.3. The Manager is authorised and regulated by the Financial Conduct Authority for the conduct of designated investment business (FRN: [833108](#)). The Manager is a party to this Agreement in its own right and as agent for and on behalf of the Administrator and the Nominee.
- 2.4. Unless otherwise agreed between the Manager and the Investor, the Investor will be categorised by the Manager as a “Retail Client”, for the purposes of FCA Conduct of Business (“COBS”) rule 18.5 only. For the avoidance of doubt, as the Fund is an Alternative Investment Fund, the Manager will, for regulatory purposes, treat the Fund as its client and, other than as set out in COBS rule 18.5.
- 2.5. The Investor confirms and warrants that:
  - 2.5.1 he/she is an experienced investor in small to medium higher risk, unquoted companies and is suitably knowledgeable of the risks associated with non-readily realisable investments;
  - 2.5.2 if he/she has completed the Application Form with details of agreed adviser charges to be facilitated, he/she has been advised as to the suitability of participation in the Fund by his/her financial adviser;
  - 2.5.3 he/she is either one or more of the following:
    - (i) **A Certified High Net Worth Individual** within the meaning of COBS 4.7.9 R and 4.12.6 R;
    - (ii) **A Self-certified Sophisticated Investor** within the meaning of COBS 4.7.9 R and COBS 4.12.8 R;
    - (iii) **A Certified Sophisticated Investor** within the meaning of COBS 4.7.9 R and COBS 4.12.7 R;
    - (iv) **A Restricted Investor** certified in accordance with COBS 4.7.10 R.
- 1.6. The Investor confirms that he/she is not seeking advice from the Manager on the merits of any investment in respect of the Fund. The Investor has the right to cancel this Agreement for a period of

up to 14 calendar days from the day on which the Manager accepts the Investor's Application Form. If wishing to cancel, a cancellation form is available on request to the Manager and should be completed and returned in accordance with the instructions printed on it, so as to arrive at the offices of the Administrator and Custodian not later than the 14<sup>th</sup> calendar day after acceptance. In the event of cancellation, the Manager will procure that the Investor will receive back from the Administrator and Custodian his/her Subscription, net of the Administrator and Custodian's reasonable processing costs within 28 days after receipt of the completed cancellation form; and all further provisions of this Agreement shall cease thereupon to apply.

### **3. Subscriptions**

#### **3.1. In respect of the Fund:**

- 3.1.1. The Investor shall make a Subscription of not less than £25,000 at the same time as submitting his or her Application Form to invest in the Fund;
- 3.1.2. The Investor may apply to make further Subscriptions to the Fund over the lifetime of the Fund and those further Subscriptions may be accepted or rejected by the Manager in its sole discretion. The total Subscriptions made to the Fund by the Investor shall be the initial value of the Investor's Portfolio.

#### **3.2. The Administrator and Custodian shall deposit Subscriptions received in a client account pursuant to Clause 7 pending their investment.**

### **4. Services**

- 4.1. Subject to Clause 7.3, the Manager will manage the Fund as from the relevant Closing Date onwards on the terms set out in this Agreement. The Manager will exercise all discretionary powers in relation to the selection of, or exercising rights relating to, Investments of the Fund on the terms set out in this Agreement.
- 4.2. On behalf of the Investor, the Manager has engaged the Administrator and Custodian to provide safe custody services.
- 4.3. The Manager shall not, however, except as expressly provided in this Agreement or unless otherwise authorised, have any authority to act on behalf of, or in respect of, the Investor or to act as the agent of the Investor.

### **5. Investment Objectives and Restrictions**

- 5.1. In performing its services, the Manager shall have regard to and shall comply with the Investment Objective and the Investment Restrictions set out in Schedule 1 to this Agreement.
- 5.2. In performing its services, the Manager shall at all times have regard to:
  - 5.2.1. the intention that the Fund attracts EIS Income Tax Relief and/or CGT Deferral, and
  - 5.2.2. all Applicable Laws.
- 5.3. Generally, the Manager reserves the right to return uninvested cash if it concludes that it cannot be properly invested for the Investor and it considers it to be in the best interests of the Investor, having regard to availability of EIS Reliefs and/or CGT Deferral for the Investor.
- 5.4. In the event of a gradual realisation of Investments prior to termination of the Fund under Clause 15.1, the cash proceeds of realised investments will be distributed amongst the Investors in accordance with their interest in the Investments. For the avoidance of doubt, any proceeds shall be distributed subject to any deduction of fees as set out in Schedule 2 of this Agreement.

### **6. Terms Applicable to Dealing**

- 6.1. In effecting transactions for the Fund, the Manager will act in accordance with the FCA Rules and will ensure that best execution is sought at all times and deals are made on such markets and exchanges and with such counterparties as the Manager thinks fit as follows:
  - 6.1.1. in relation to transactions in quoted securities, deals are made on such markets and exchanges and with such counterparties; and
  - 6.1.2. in relation to transactions in unquoted securities, deals are entered into on the best commercial terms in the circumstances;

and, in either case, as the Manager considers to be in the best interests of the Fund. The Manager maintains a written execution policy with respect to the Fund and the transactions which it enters into in relation to the Fund, which is annexed to this Agreement. The Manager will provide a hard copy to the Investors upon written request.

- 6.2. Where clause 6.1.1 applies, it is agreed that all transactions will be:
  - 6.2.1. effected in accordance with the rules and regulations of the relevant market or exchange and the Manager shall take all reasonable steps as may be required or permitted by such rules and regulations and/or by good market practice; and
  - 6.2.2. subject to the rules and customs of the exchange or market and/or clearing house through which the transactions are executed and to all Applicable Laws so that:
    - 6.2.2.1. if there is any conflict between the provisions of this Agreement and any such rules, customs or Applicable Laws, the latter shall prevail; and
    - 6.2.2.2. action may be taken as thought fit in order to ensure compliance with any such rules, customs or Applicable Laws.
- 6.3. **The Investor acknowledges that the Portfolio will be substantially invested in a range of unlisted securities and, there is generally no relevant market or exchange and consequent rules and customs, and there will be varying practices for different securities. Transactions in unlisted securities will be effected on the best commercial terms which can be secured by the Manager. The Investor hereby confirms that it consents to the written execution policy. In particular, the Investor agrees that the Manager may trade outside of a regulated market or MTF, each as defined in the FCA Rules.**
- 6.4. Subject to the FCA Rules, transactions for the Portfolio may be aggregated with those of other clients of the Manager, and of the Manager's employees and Associates and their employees. Investments made pursuant to such transactions will be allocated on a fair and reasonable basis in accordance with the FCA Rules and reasonable endeavors will be made to ensure that the aggregation will work to the advantage of each of the Investors, including the Investor, but the Investor acknowledges that the effect of aggregation may work on some occasions to the Investor's disadvantage.
- 6.5. Where transactions for the Investor are aggregated with transactions undertaken for other Investors, the Manager shall have absolute discretion as to the number of shares in a Qualifying Company held as an Investment for the Fund allocated to the Investor, provided that Investors shall not have fractions of shares. Minor rounding up or down may be allowed to prevent Investors being deemed to be interested in fractions of shares and the aggregate of fraction entitlements may be held by the Administrator and Custodian for the Manager, but the Investor will always be the beneficial owner of the shares allocated to him.
- 6.6. Certain categories of professional persons are required to be excluded from any Investments to which they or their employer are connected, for the purposes of prevailing EIS legislation. If this applies to the Investor, in relation to a given potential Investment his/her allocations of that Investment will be redistributed across all other Investors as equitably as practically possible, and an equivalent cash amount will be re-credited to his/her Portfolio.
- 6.7. The Manager will act in good faith and with due skill, care and diligence in its choice and use of counterparties but, subject to this obligation, shall have no responsibility for the performance by any counterparty of its obligations in respect of transactions effected under this Agreement.
- 6.8. Proceeds of a sale of an Investment ("Proceeds") will be credited to an Investor's Portfolio which has an interest in the relevant Investee Company:
  - 6.8.1. and such Proceeds will be distributed to the Investor, subject to the Fund being in receipt of the Proceeds in its bank account in cleared funds; and
  - 6.8.2. deduction of any fees due and payable by the Investor as set out in Schedule 2 of this Agreement.

## 7. Custody and Administration Arrangements

- 7.1. By signing the Application Form the Investor consents to the Manager entering into an agreement with the Administrator and Custodian to provide a custody, safe-keeping and administrative service:
  - 7.1.1. references to the Administrator and Custodian in this Clause 7 (and in this Agreement generally) do not themselves create a contractual relationship between the Administrator and Custodian and the Manager;
  - 7.1.2. where such references define the role and function of the Administrator and Custodian and are for any reason inconsistent with the provisions of the Administrator and Custodian's agreement of business, then the Administrator and Custodian's own agreement will prevail;
- 7.2. The Administrator and Custodian will be responsible for the safe keeping of Investments and cash that comprise the Fund, including the settlement of transactions, collection of income and the effecting of other administrative actions in relation to the Investments.

- 7.3. Investments will be registered in the name of the Administrator and Custodian's appointed Nominee on behalf of the Investor.
- 7.4. The Administrator and Custodian will hold any title documents or documents evidencing title to the Investments.
- 7.5. Investments or title documents may not be lent to a third party and nor may there be any borrowing against the security of the Investments or such documents.
- 7.6. An Investment may be realised in order to discharge an obligation of the Investor under this Agreement, for example in relation to the payment of any overdue fees, costs and expenses.
- 7.7. The Administrator and Custodian will arrange for the Manager to receive details of any meetings of shareholders in Investments and any other important information issued to shareholders in Investments. The Manager may apply to the Administrator and Custodian for a proxy directing how any voting rights are to be exercised by the Administrator and Custodian in respect of an Investment.
- 7.8. The Administrator and Custodian will hold cash subscribed by the Investor in accordance with the Client Money Rules of the FCA. Such cash balance will be deposited with an authorised credit institution in a bank account (or accounts) opened and maintained in the name of the Administrator and Custodian. The Administrator and Custodian may debit or credit the Investor's account for all sums payable by the Manager or to the Manager or the Investor (including dividends receivable in cash and fees and other amounts payable by the Investor).
- 7.9. The Custodian will hold the Investors money pending investment using a segregated omnibus account which will have trust status and will be kept separate from any money belonging to the Custodian.
- 7.10. The Investor acknowledges that their investments will be registered in the name of the Nominee but it will be held on trust by the Nominee and the Investor will remain beneficial owner of the investments.
- 7.11. No interest will be paid on credit balances in the said bank account in accordance with the Administrator and Custodian's agreement.

## **8. Reports and Information**

- 8.1. The Investor will be sent electronic report every six months, in compliance with the FCA Rules. Reporting will take place every six months, on 5 April and 5 October, in accordance with the Administrator and Custodian agreement. Reports will include a measure of performance in the later stages of the Fund, once valuations are available for the Investments.
- 8.2. Details of dividends which are received in respect of the Investments will be provided in respect of each tax year ending 5 April and appropriate statements sent to the Investor.
- 8.3. Contract notes will be provided for each transaction for the Investor's Portfolio, which is of a type that conventionally generates a contract note. In other cases, the Manager will confirm to the Investor when a transaction has been entered into and the number of shares or securities under that transaction which have thereby been allocated to, or sold on behalf of, the Investor's Portfolio.
- 8.4. The Manager shall supply (or arrange for the Administrator and Custodian to supply) such further information, which is in its possession or under its control as the Investor may reasonably request as soon as reasonably practicable after receipt of such request.
- 8.5. Any statements, reports or information provided by the Manager under this Clause 8 to the Investor will state the basis of any valuations of Investments provided.

## **9. Fees and Expenses**

- 9.1. The Manager, the Administrator and the Custodian shall receive fees for their respective services, and reimbursements of costs and expenses, as set out in Schedule 2 to this Agreement.
- 9.2. Fees payable to the Administrator and Custodian may be deducted by the Administrator and Custodian at source, upon presentation of an invoice to the Manager.
- 9.3. The Manager is entitled to receive fees from the Portfolio in consideration of its services, as set out in Schedule 2 of this Agreement.

## **10. Management and administration obligations**

- 10.1. The Manager shall devote such time and attention and have all necessary competent personnel and equipment as may be required to enable it to provide the management services, set out in this agreement, properly, efficiently and in compliance with the FCA Rules. However, in furtherance of the Investment Objective.

- 10.2. Except as disclosed in the Information Memorandum and as otherwise provided in this Agreement (for example on early termination), the Manager will procure that the Administrator and Custodian does not take, any action which may prejudice the tax position of the Investor insofar as they are aware of the relevant circumstances, and in particular which may prejudice obtaining the EIS Reliefs and/or CGT Deferral for the Fund's Investments.

## **11. Obligations of the Investor**

- 11.1. The Investor's participation in the Fund shall be on the basis of the declarations and representations made by the Investor in his/her Application Form and further on the basis that he/she agrees to notify the Manager:
- 11.1.1. whether or not he/she wishes to seek EIS Income Tax Relief and/or CGT Deferral for the Investments;
  - 11.1.2. if any Investment by the Fund is in any company with which the Investor is connected within section 163 and sections 166 to 177 of the ITA, (in which case Clause 6.6 of this Agreement will apply at once);
  - 11.1.3. if, within three years of the date of issue of shares to his/her Portfolio in a Qualifying Company or within three years of commencement of trade if later, the Investor becomes connected with the company or receives value from such company (in which case clause 6.6 will apply at that time); and
  - 11.1.4. of the Investor's tax district, tax reference number and National Insurance number.
- 11.2. The Investor confirms that the information stated in the Application Form in these (and all other) respects is true and accurate as at the date of this Agreement.
- 11.3. The Investor agrees immediately to inform the Manager in writing of any change of tax status, other material change in circumstance and any change in the information provided in the Application Form to which Clause 11.1 above refers.
- 11.4. In addition, the Investor agrees to provide the Manager with any information, which it reasonably requests, for the purposes of managing the Fund pursuant to the terms of this Agreement.

## **12. Delegation and Assignment**

- 12.1. The Manager may, where reasonable, employ agents, including Associates, to assist the Manager in performing its services under this Agreement, in which case it will act in good faith and with due skill.

## **13. Potential Conflicts of Interest and Disclosure**

- 13.1. The Manager may provide similar services or any other services whatsoever to any other client and shall not in any circumstance be required to account to the Investor for any profits earned in connection therewith. So far as is deemed practicable the Manager will use all reasonable endeavors to ensure fair treatment as between the Investor and other clients in compliance with the FCA Rules. The Manager has in place a conflict of interest policy (the Conflict Policies) pursuant to the FCA Rules, which sets out how it identifies and manages conflicts of interest.
- 13.2. Under the respective Conflicts Policies, the Manager is required to take all reasonable steps to identify conflicts of interest between:
- 13.2.1. itself, including its employees and contracted consultants, or any person directly or indirectly linked to them by control, and a client of the Manager; or
  - 13.2.2. one client of the Manager and another such client.
- 13.3. The Manager will take the appropriate steps should they identify any conflicts that may arise in other situations including between the Manager and any of its shareholders. Where the Manager owes a duty to such clients, it must maintain and operate arrangements to prevent any conflict from giving rise to a material risk of damage to the interests of its clients.
- 13.4. A copy of the Conflicts Policy is available upon request.

## **14. Liability of the Manager**

- 14.1. The Manager will act at all times in good faith and with due skill.
- 14.2. The Manager shall not be liable for any loss to the Investor arising from any investment decision made or advised in accordance with the Investment Objective and the Investment Restrictions or for other action in accordance with this Agreement, except to the extent that such loss is directly due to the negligence or willful default or fraud of the Manager, or of its Associates or any of their respective employees.

- 14.3. Subject to Clauses 7 and 14.1, the Manager shall not be liable for any defaults of any counterparty, agent, banker, nominee or other person or entity which holds money, investments or documents of title for the Fund, other than such party which is its Associate.
- 14.4. In the event of any failure, interruption or delay in the performance of the Manager's obligations resulting from acts, events or circumstances not reasonably within its control including but not limited to war, riot, civil commotion, terrorism or threat thereof, acts or regulations of any governmental or supranational bodies or authorities and breakdown, failure or malfunction of any telecommunications or computer service or systems, the Manager shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the Investor.
- 14.5. **The Manager does not give any representations or warranty as to the performance of the Portfolio. The Investor acknowledges that EIS Investments are high-risk investments. There is a restricted market for such Investments and it may, therefore, be difficult to sell the Investments or to obtain reliable information about their value. The Investor undertakes that he/she has himself/herself considered the suitability of an investment in EIS Qualifying Companies carefully and has noted the risk warnings set out in the Information Memorandum about the Fund.**

## 15. Termination

- 15.1. The Fund is an "Evergreen Fund" and has no fixed or envisaged termination date.
- 15.2. The Manager may set a date, which it shall notify to the Investor, on which the Fund will terminate, giving no less than three years written notice. In the case of an Investor's Portfolio the intention is to exit all Investee Companies in the Portfolio between three and seven years after the relevant Closing Date. On termination of the Fund, all shares held in the Portfolio will either be sold, and cash transferred to the Investor, in accordance with the distribution provisions set out in clause 6.8, or the shares will be transferred into the Investor's name or as the Investor may otherwise direct. The Manager reserves the right to extend any date set under this clause 15.2 if it reasonably feels that it is in the best interest of the Investor.
- 15.3. The Investor may serve reasonable written notice on the Manager seeking to withdraw non-cash assets from his/her Portfolio in circumstances where this is sanctioned in accordance with the provisions of paragraph 2 of the Schedule to the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001 (as amended, and as treated as amended by implication in accordance with prevailing EIS legislation enacted after the coming into force of the said Order). In the case of a request to withdraw non-cash assets from the Investor's Portfolio the Investor is warned that, and accordingly acknowledges:
  - 15.3.1. that he/she may lose EIS Reliefs and/or CGT Deferral where such a request to withdraw requires Investments to be sold; and
  - 15.3.2. that it may not be practicable for the relevant shares to be immediately sold or transferred in which case there may be a delay in completing the withdrawal. If it is practicable to effect, and the Investor decides to proceed with, an early withdrawal, the Manager will, unless the Investor otherwise requests, effect the withdrawal (whether of cash, non-cash assets or both, or where the Investor's instruction to the Manager is to seek to realise non-cash assets for their cash value) on the last business day of the month following that in which such decision is made.
- 15.4. If the Manager gives to the Investor not less than three months' written notice of its intention to terminate its role as Manager under this Agreement, or the Manager ceases to be appropriately authorised by the FCA or becomes insolvent, then the Manager shall endeavor to make arrangements to transfer the Fund to an appropriately authorised and regulated discretionary investment manager in which case that discretionary investment manager shall assume the role of the Manager under this Agreement. Failing which this Agreement shall terminate forthwith and, subject to Clause 16, the Investments in the Portfolio shall be transferred into the Investor's name or as the Investor may otherwise direct. If the Administrator and Custodian's terms of business are terminated, or otherwise in circumstances where there is no authorised custodian providing a custody, safekeeping and administration service to the Investor, the Manager shall use reasonable endeavors to procure that an appropriately authorised and regulated custodian is appointed, failing which this Agreement shall terminate forthwith and, subject to Clause 16, the Investments in the Portfolio shall be transferred into the Investor's name or as the Investor may otherwise direct.

## 16. Consequences of Termination

- 16.1. On termination of this Agreement pursuant to Clause 15, the Manager will use reasonable endeavors to complete all transactions in progress at termination expeditiously on the basis set out in this Agreement.
- 16.2. Termination will not affect accrued rights, existing commitments or any contractual provision intended to survive termination and will be without penalty or other additional payments save that the Portfolio will bear the cost of fees, expenses and costs properly incurred by the Manager or the Administrator and Custodian up to and including the date of termination and payable under the terms of this Agreement.
- 16.3. On termination, the Manager may retain or realise such Investments as may be required to settle transactions already initiated and to pay the Investor's outstanding liabilities, including fees, costs and expenses payable under Clause 9 of this Agreement, the details of which are set out in Schedule 2 to this Agreement.

## **17. Confidential Information**

- 17.1. None of the parties shall disclose to third parties information the disclosure of which by it would be or might be a breach of duty or confidence to any other person.
- 17.2. In performing this Agreement, the Manager shall be required to make use of information which comes to the notice of their respective employees, officers or agents (or those of any of their respective Associates) unless this has come to the actual notice of the individual employees, officers or agents whom the Manager specifically retained for the purposes of providing services under this Agreement to the Investor.
- 17.3. The Manager will at all times keep confidential all information acquired in consequence of this Agreement, except for information which:
  - 17.3.1. is public knowledge; or
  - 17.3.2. either of them may be entitled or bound to disclose under compulsion of law; or
  - 17.3.3. is required to be disclosed by regulatory agencies; or
  - 17.3.4. is given to their respective professional advisers where reasonably necessary for the performance of their professional services; or
  - 17.3.5. needs to be shared with the Administrator and Custodian for the proper performance of this Agreement; or
  - 17.3.6. is shared between the Manager in the performance of their respective duties under this Agreement; or
  - 17.3.7. is authorised to be disclosed by the Investor, provided that in making such disclosure the Manager, as the case may be, shall use all reasonable endeavors to prevent any breach of this Clause 17 through further or onward disclosure thereof.

## **18. Complaints and Compensation**

- 18.1. The Manager has established procedures in accordance with the FCA Rules for consideration of complaints. Details of these procedures are available on request. Should an Investor have a complaint, he should contact the Manager in the first instance. If the Manager cannot resolve the complaint to the satisfaction of the Investor, the Investor may be entitled to refer it to the Financial Ombudsman Service.
- 18.2. The Manager participates in the Financial Services Compensation Scheme, established under the FSMA, which provides compensation to eligible Investors in the event of a firm being unable to meet its customer liabilities. Payments under the protected investment business scheme are limited to a maximum of the first £50,000 of the claim. Further information is available on the [FSCS](#) website.

## **19. Notices, Instructions and Communications**

- 19.1. Notices of instructions to the Manager should be in writing and signed by the Investor, except as otherwise specifically indicated.
- 19.2. The Manager may rely and act on any instruction or communication which purports to have been given by persons authorised to give instructions by the Investor under the Application Form or subsequently notified by the Investor from time to time and, unless that relevant party receives written notice to the contrary, whether or not the authority of such person shall have been terminated.

## **20. Unsolicited real-time financial promotion**

20.1. The Manager may communicate an unsolicited real-time Financial Promotion (i.e. interactive communications such as a telephone call promoting Qualifying Company investments) to the Investor.

## **21. Amendments**

21.1. The Manager may amend this Agreement by giving the Investor not less than ten business days' written notice. The Manager may also amend these terms by giving the Investor written notice with immediate effect if such is necessary in order to comply with HMRC requirements in order to maintain the EIS Reliefs and/or CGT Deferral or in order to comply with the FCA Rules, and the Investor shall be bound thereby.

## **22. Data Protection**

22.1. Please refer to the Manager's Privacy Policy on [www.ascensionventures.com](http://www.ascensionventures.com) for further information on how Investors' data is held and managed.

## **23. Entire Agreement**

23.1. This Agreement, together with the Application Form, comprises the entire agreement. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

23.2. Clause 23.1 is without prejudice to the Administrator and Custodian Agreement.

## **24. Rights of Third Parties**

24.1. A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, but this does not affect any right or remedy of such third party which exists or is available apart from that Act.

## **25. Severability**

25.1. If any term, condition or provision of this Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality or enforceability of the remainder of this Agreement.

## **26. Governing Law**

26.1. This Agreement and all matters relating thereto shall be governed by and construed in accordance with English Law and the parties submit to the exclusive jurisdiction of the English Courts.

## **27. Acknowledgement**

27.1. I confirm that I am 18 years of age or older, and personally possess sufficient knowledge, experience and expertise in financial and business matters (including experience with investments of a similar nature to an investment in the Fund) to be capable of evaluating the merits and risks of a subscription in the Fund.

## **28. Agreements**

28.1 I hereby agree that any term or provision of this Investment Management Agreement, Application Form & Information Memorandum which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms or provisions of this Application Pack or affecting the validity or enforceability of any of the terms or provisions of this Investment Management Agreement, Application Form & Information Memorandum in any other jurisdiction. Whilst the Manager, Administrator & Custodian and the Nominee will comply with the FCA's rules concerning client money under CASS 7 and client assets under CASS 6, the Manager, Administrator & Custodian and the Nominee shall not be liable in the event of an insolvency of any bank with which any funds held by them on behalf of the Fund have been deposited nor in the event of any restriction on their ability to withdraw funds from such bank for reasons which are beyond their control.

28.1.1. I have read the Information Memorandum and the Investment Management Agreement, I have understood and I agree to be bound as a party to the terms of the Investment Management Agreement and authorise the Manager to enter into the Custodian & Administrators Agreement on my behalf.



- 28.1.2. I will notify the Manager if I am connected for the purposes of Income Tax Act 2007 sections 167, 170 or 171 with any company in which the Fund invests.
- 28.1.3. I will notify the Manager if, within three years of the date of issue of shares by a EIS Qualifying Company which are allotted to my portfolio, I become connected with the EIS Qualifying Company or receive value from that company.
- 28.1.4. I agree that in compliance with the FCA rules, telephone calls may be recorded by the Custodian.

## **29. Use of Personal Information**

- 29.1. By providing personal information as part of your application and by signing this Application Form, you hereby confirm that you consent to the use of your personal information as follows. Except as stated below, the Manager will not make the personal information provided by you as part of this Application Form available to any person or entity outside the Ascension group ("the Groups") and where required by law or, if requested, by any regulatory authority having jurisdiction over the Manager. This personal information will be stored on the database which is shared by the Manager, Custodian and all the companies within the Groups.
- 29.2. This personal information may be used by the Manager and/or any member of the Groups to send you details of new and existing products (including by email) unless you notify the Manager in writing that it may not be used in this way.

## **30. Financial Advisers' Fees (Only applicable if advice received from a Financial Adviser)**

- 30.1. The information below will not be applicable to Investors who invest through a Financial Adviser and have agreed to pay fees directly to the Financial Adviser. Following the FCA's Retail Distribution Review (RDR), Financial Advisers are no longer permitted to receive a commission for financial advice provided from 1 January 2013 in respect of "retail investment products". The Fund is deemed to be a "retail investment product". Therefore, Financial Advisers who introduce Investors by providing financial advice are now obliged to recover compensation from the Investors in consideration of such advice and no initial commission will be payable. However, subject to express instruction of an Investor, arrangements will be made to pay on the Investor's behalf such one-off advisory fees as the Investors and his Financial Adviser agree (and notify on the Application Form) represents the cost to the Investor of the advice he or she received in relation to the making of this Application.
- 30.2. Where a Financial Adviser Has Introduced Investors Without Providing Financial Advice: Financial Advisers who introduce Investors without providing financial advice (sometimes known as "execution only brokers") are eligible to receive an Execution Fee of 3%. The Manager will facilitate the payment of the Execution Fee to the Financial Adviser on behalf of the Investor. This payment will be paid by the Manager from the Initial Arrangement Fee payable by Investee Companies to the Manager.

## **31. Investor Declaration**

- 31.1. I have read and understood the [PRIIPs KID Document](#).
- 31.2. I consent to you providing an electronic copy of the Investment Management Agreement and the Administration and Custodian Agreement to me.
- I confirm that I have read, understood and agree with the Terms and Conditions of the Information Memorandum, Application Form, the Administrator and Custodian's Agreement & the Investment Management Agreement, which is the binding contract with you, and give the confirmations and consents therein.
- 31.3. By submitting my Application, I agree with Mainspring's Terms and Conditions (T&Cs) which is their binding contract with you. Mainspring's privacy policy which can be found on their website by clicking [here](#). It contains information on how Mainspring collect, process, store and share your data. It also explains why your data is collected and the many rights you have regarding your personal data.

## **SCHEDULE 1: INVESTMENT OBJECTIVE AND INVESTMENT RESTRICTIONS**

### **1. Investment Objectives**

- 1.1. To offer a wide range of investors the opportunity to invest in a diversified portfolio of technology-based venture capital investments with high-growth potential, in order to provide them with capital to assist in and accelerate their growth. The Manager's aim is to manage the funds subscribed by Investors to produce capital gains within a period of three to six years, whilst managing risk and to provide Investors with the tax advantages associated with EIS investments.

### **2. Investment Restrictions**

- 2.1. Each Investment will be in a company into which the Manager has conducted appropriate investigations in order to establish whether it meets the Fund's objectives and in respect of which the Manager subsequently decides to invest.
- 2.2. In carrying out its duties under this Agreement in respect of the Fund, regard shall be had, and all reasonable steps will be taken, by the Manager to comply with such policies or restrictions as are required in order to attract EIS Reliefs and CGT Deferral as may be prescribed by HM Revenue & Customs from time to time.
- 2.3. In particular, but without prejudice to the generality of the above statements, the criteria for the Fund are as follows:
  - 2.3.1. so far as practicable, each Investment shall be in shares of a Qualifying Company;
  - 2.3.2. so far as is practicable, the Portfolio shall be fully invested (subject to cash retention to meet fees, costs and expenses); and
  - 2.3.3. generally, the Manager reserves the right to return a small surplus of cash if it concludes that it cannot be properly invested for the Investor or considers it to be in the interests of the Investor, having regard to EIS Reliefs for the Investor.
- 2.4. The intention is to disinvest between approximately three and six years after the relevant Closing Date. In the event of a gradual realisation of Investments prior to termination of the Fund under Clause 15, the cash proceeds of realised Investments will be distributed amongst the Investor's in accordance with Clause 6.8 of this Agreement.

## **SCHEDULE 2: FEES AND EXPENSES IN RESPECT OF THE FUND**

### **1. Initial Fees and Costs**

#### **1.1. Initial Charge payable by the Investee Company**

- 1.1.1. The Manager shall receive an initial investment arrangement fee payable by Investee Companies around or equal to 5.0%, from time to time, of amounts invested in the Investee Company by Investors through the Fund and paid to the Manager upon completion of an Investment ("Initial Charge").
- 1.1.2. All costs associated with the setting up of the Fund, including any initial commission to authorised Intermediaries who introduce investors without providing investment advice, all legal, issue and start-up costs will be met by the Manager out of the Initial Charge.
- 1.1.3. The Manager undertakes to cover such costs to the extent they exceed the aggregate Initial Charge payable by all of the Investee Companies in the Fund.

### **2. Ongoing Fees and Expenses payable by the Investor**

#### **2.1. The Investor will be liable for the following fees:**

##### **2.1.1. Annual Management Fee**

The Investor will pay the Manager an annual management fee equal to 1% of his/her total Subscription ("Annual Management Fee"). The Annual Management Fee will accrue from the relevant Closing Date of the Investors subscription until 5 years from relevant Closing Date (5 years total). The accrued Annual Management Fee will be satisfied from any distribution made by the Fund to the Investor under the terms of this Agreement and such fee shall be deducted after the Transaction Fee (see 2.1.2) is deducted and prior to any distribution to the Investor being made. The Manager will use the proceeds from the Annual Management Fee to cover the matters referred to in the 'Fee Structure' section of the Information Memorandum.

##### **2.1.2. Transaction Fee**

Prior to any distribution being made to an Investor, in relation to each investment in an Investee Company, by the Fund, a transaction fee equal to 0.25% of the total amount available for distribution (prior to the deduction of the Annual Management Fee) will be deducted and will be paid to the Administrator and Custodian.

- 2.1.3. Additional fees may be due and payable in relation to any follow-on funding rounds as set out further in this paragraph 2.

#### **2.2 Other Fees**

- 2.2.1 Reasonable arm's length expenses and/or transaction fees incurred by the Manager in managing the Fund and/or the Portfolio shall be reimbursed by Investee Companies. These may include due diligence on prospective Investments, audit and reporting, consultancy, and legal advice;
- 2.2.2 Any dispute as to what constitutes a reasonable arm's length expense and/or transaction fee will be determined by the Investment Conflicts Committee.

#### **2.3 Performance Fee**

- 2.3.1 The Manager shall receive the following Performance Fee payable by the Investor calculated as the sum of:
  - 2.3.1.1 20% of any return to an Investor above £1.05 per £1 of Subscriptions in the Fund, which only arises when the amount of cumulative cash returned to the Investor reaches the 105% hurdle rate; and
  - 2.3.1.2 Subject to paragraph 2.3.1.1, 10% of any return to an Investor equivalent to an amount above 100% of the gross amount invested by the Investor, via the AV Syndicate Club (as set out in paragraph 2.4.1 below), in an Investee Company on completion of any follow-on funding round carried out by an Investee Company following the Investment ("**Follow-On Funding Round**").
- 2.3.2 For the avoidance of doubt, on an early withdrawal of non-cash assets under Clause 15 of this Agreement, the withdrawal would be treated as a "sale" of the Investor's Investments for purpose of paragraphs 2.1 and 2.3 of this Schedule 2.

#### **2.4 Follow-On Funding Round**

- 2.4.1 Following completion of an Investment, in the event that an Investee Company proceeds with a Follow-On Funding Round, the Investors may have the option to take up any pre-emption rights they may have, or be indirectly entitled to as the beneficial owner of shares ("**Pre-emption Rights**"), to apply for the subscription of some or all of the shares allocated to them as a result of their Pre-emption Rights in the Follow-On Funding Round. If the Investor's total investment in the Follow-On Funding Round is less than £25,000 then such investment will be made by the Manager using the AV Syndicate Club (the same structure as the investments made through the Fund ("**AV Syndicate Club Structure**")). If the Investor invests in excess of £25,000 in the Follow-On Funding Round, the Investor can elect for such investment to be made by the Manager using the AV Syndicate Club Structure, or to make such investment in his/her personal capacity, if agreed with the Investee Company. For the avoidance of doubt any investment made using the AV Syndicate Club Structure will be subject to the payment of the performance fee set out in paragraph 2.3.1.2 above.

### **3 Financial Advisers' Fees**

- 3.1 In the case of an Investor in respect of which an authorised intermediary has provided financial advice in relation to his/her Application:
- 3.1.1 on express instruction from the Investor, amounts will be paid to the authorised intermediary to pay on the Investor's behalf such advisory fees as the Investor and his/her authorised intermediary have agreed (and notified to the Administrator and Custodian). This represents the cost to the Investor of the advice he/she received in relation to the making of his/her Application;
  - 3.1.2 such amounts will be deducted from the Investor's subscription and remitted to the authorised intermediary;
  - 3.1.3 if the authorised intermediary's fee includes VAT, the Investor will remain liable for the VAT element thereof, even where arrangements have been made to make and pay the deduction described at paragraph 3.1.1. of this Schedule 2.
- 3.2 In the case of an Investor in respect of which an authorised intermediary has not provided financial advice in relation to his/her Application;
- 3.2.1 on express instruction from the Investor, amounts will be paid to an authorised intermediary as initial commission;
  - 3.2.2 such amounts will be payable by the Manager out of the Initial Charge received from Investee Companies as described in paragraph 1.1.1 of this Schedule 2.

### **4 General**

- 4.1 Fees, costs and expenses are exclusive of any applicable VAT, which shall be payable by Investee Company or the Investor (as applicable) to the Manager.

## **ANNEX: MANAGER'S BEST EXECUTION POLICY (October 2019)**

### **1. Purpose**

This Annex summarises the arrangements put in place by the Manager under the FCA Rules to meet its obligation to take all reasonable steps to obtain the best possible result when executing orders in financial instruments on behalf of clients.

The duty of best execution is owed by the Manager to a client only when the Manager has a contractual or agency obligation to the client. For the avoidance of doubt, the client in this instance is the Fund.

### **2. 'Execution Factors' and 'Execution Criteria'**

In meeting our best execution obligation, we will take into account the following execution factors: price, costs, speed, the likelihood of execution and settlement, size, nature, or any other consideration relevant to the execution of the order.

Additionally, when executing a client order, the following best execution criteria will be taken into account when determining the importance of the execution factors, which are the characteristics of the client (including their categorisation as a retail or professional client): client order, the financial instruments that are the subject of the order, and the execution venues to which the order can be directed (where relevant).

Your attention is drawn to the information about Fund structure set out in the Information Memorandum, which explains the restrictions which apply to your ability to dispose of an interest in an Investee Company prior to disposal of the Fund's overall position in that company.

### **3. The Role of Price When Obtaining Best Execution**

For a Retail Client, the best possible result will always be determined in terms of the "Total Consideration". The Total Consideration represents:

- (a) the price of the financial instrument; and
- (b) the costs related to execution, which will include any expenses incurred by you, which are directly related to the execution of your order. This can include:
  - (i) execution venue fees;
  - (ii) clearing and settlement fees; and
  - (iii) any other fees paid to third parties involved in the execution of the order.

Therefore, when dealing, obtaining the best result in terms of Total Consideration will take precedence over the other execution factors listed above, and the other execution factors will only be given precedence over the immediate price and cost consideration insofar as they are instrumental in delivering the best possible result in terms of the Total Consideration.

### **4. Execution Venues**

The Manager primarily executes deals in transferable securities, which are not admitted to trading on a Regulated Market or Multilateral Trading Facility (MTF). Transactions in unlisted securities will be effected on the best commercial terms which can be secured.

The Manager considers that it will be demonstrated that all reasonable steps have been taken to obtain the best possible result when executing a client order in an unlisted security where this is in accordance with:

- (a) the Investment Objectives of the Fund, as detailed in the Information Memorandum; and
- (b) the factors set out in the Investor Management Agreement.