

Dated 22 March 2024

**PUNAKAIKI FUND LIMITED
MANAGEMENT AGREEMENT**

between

PUNAKAIKI FUND LIMITED
Company

and

2040 VENTURES LIMITED
Manager

TABLE OF CONTENTS

1. INTERPRETATION	3
2. APPOINTMENT OF MANAGER	8
3. INVESTMENT MANAGEMENT SERVICES	10
4. ADMINISTRATION SERVICES	11
5. FUND RAISING SERVICES	11
6. MANAGER STANDARD OF CARE	12
7. MANAGER'S REMUNERATION	12
8. COSTS	15
9. CHANGE OF CONTROL EVENT	16
10. TERMINATION OF MANAGER BY SHAREHOLDERS	17
11. TERM AND TERMINATION	17
12. EFFECT OF TERMINATION	19
13. LIMITATION OF LIABILITY	20
14. GENERAL	21
SCHEDULE 1	24

DATED 22 March 2024

PARTIES

1. **PUNAKAIKI FUND LIMITED** (Company Number 4395942)
2. **2040 VENTURES LIMITED** (Company Number 4391999) (the “**Manager**”)

BACKGROUND

- A. The Company is an investment fund and makes and holds investments in accordance with the Investment Mandate.
- B. The Manager provides investment, management and administrative services to the Company under this Agreement.

IT IS AGREED

1. INTERPRETATION

- 1.1 **Definitions:** In this Agreement, unless the context requires otherwise:

“**Administration Fee**” means a fee for Administration Services calculated and payable in accordance with the Administration Policy.

“**Administration Policy**” means the Company’s Administration Policy that sets out the administration-related activities to be performed by the Manager as at the date of this Agreement and as may be amended, updated or replaced by agreement of the Company and the Manager from time to time in accordance with clause 4.2.

“**Administration Services**” means the administration services to be provided by the Manager to the Company as set out in the Administration Policy, and for clarity, being services that are separate to the Investment Management Services and the Fund Raising Services.

“**Affiliate**” means:

- (a) a holding company or a subsidiary of the Manager or another subsidiary of such a holding company;
- (b) any company, body corporate, trust, partnership or limited partnership, or person which controls, is controlled by or is under effective or common control with, the Manager; or
- (c) an entity which holds 20% or more of the shares in the Manager.

“**Agreement**” means this agreement, including the Background and all schedules to it.

“**Asset Value**” means, at the relevant time, the fair market value of the Portfolio as reasonably determined by the Board, after reasonable consultation with the Manager, in accordance with the Company’s Valuation Policies.

“**Board**” means the board of directors of the Company.

“**Business Day**” means a day (other than a Saturday or Sunday or public holiday) on which registered banks in Auckland, New Zealand, are generally open for business.

“**CAP**” means the Company’s Capital Allocation Policy as at the date of this Agreement, and as may be amended, updated or replaced from time to time in accordance with clause 14.2.

“**Commencement Date**” means 1 April 2024.

“**Company**” means Punakaiki Fund Limited and, unless the context otherwise requires, includes its Investment Entities (if any).

“**Constitution**” means the constitution of the Company.

“**Change of Control Event**” means any event that would, if completed, result in an investor, or group of investors that are associates (as that term is defined in the Takeovers Code (New Zealand)), acquiring 50% or more of the shares in the Company (whether as a result of a takeover offer under the Takeovers Code (New Zealand), a scheme of arrangement or amalgamation under Part 15 of the Companies Act 1993, or any other arrangement).

“**Delegated Authority Policy**” means the Company’s Delegated Authority Policy as at the date of this Agreement, and as may be amended, updated or replaced from time to time in accordance with clause 14.2.

“**Fund Raising Fee**” means the fee payable in respect of the Fund Raising Services (if any) as calculated in accordance with clause 7.9.

“**Fund Raising Services**” means the fund raising services (if any) to be provided by the Manager to the Company in accordance with clause 5.

“**GST**” means goods and services tax imposed under the Goods and Services Tax Act 1985 (New Zealand).

“**Interest Rate**” means a rate of interest equal to 10% per annum.

“**Investment Entity**” means a wholly owned subsidiary of the Company formed for the purpose of making investment(s) in Portfolio Securities.

“**Investment Management Services**” means the investment and associated services to be provided by the Manager as set out in clause 3.

“**Investment Mandate**” means the Company’s investment policies and objectives as set out in the SIPO and the SRI Policy.

“**Management Fee**” means the management fee calculated in accordance with Schedule 1 and payable by the Company to the Manager in accordance with clause 7.

“**Management Services**” means Investment Management Services, the Administration Services and the Fund Raising Services.

“**Manager Change of Control**” means where:

- (a) either Graeme Lance Turner Wiggs (“**Lance Wiggs**”) or Christopher Murray Humphreys (“**Chris Humphreys**”) cease to hold (directly or indirectly) a Substantial Interest; or

- (b) both of Lance Wiggs and Chris Humphreys cease to actively participate in the activities of the Manager in relation to the Company,

provided that the death of either Lance Wiggs or Chris Humphreys will not, provided the other continues to actively participate in the activities of the Manager in relation to the Company and continues to hold a Substantial Interest, constitute a Manager Change of Control.

“Market Value” means:

- (a) where the Company is listed, the market capitalisation of the Company based on the volume weighted average trading price of the Company’s shares on its primary exchange over the 20 Business Days prior to and inclusive of any date at which the Performance Fee is to be calculated;
- (b) where the Company is not listed and the Agreement is not subject to termination or expiration under clauses 10 or 11, the Net Asset Value subject to adjustment for any discount or premium to the Net Asset Value which is agreed by the Board and the Manager;
- (c) subject to paragraph (d), on termination or expiration of this Agreement under clauses 10 or 11, the greater of:
- (i) the market capitalisation of the Company based on the volume weighted average trading price of the Company’s shares over the 20 Business Days prior to the end of the Company’s most recent financial year;
 - (ii) the market capitalisation of the Company based on the volume weighted average trading price of the Company’s shares over the 20 Business Days prior to the date of termination or expiration of this Agreement; and
 - (iii) the Net Asset Value;
- (d) on termination of this Agreement pursuant to clause 11.3 or 11.5 (where the Manager is the Defaulting Party):
- (i) where the Company was not listed as at the end of the most recent financial year, the Net Asset Value as at the end of that financial year; and
 - (ii) where the Company was listed as at the end of the most recent financial year, the market capitalisation of the Company based on the volume weighted average trading price of the Company’s shares over the 20 Business Days prior to the end of that financial year.

“Net Asset Value” means, at any time:

- (a) the Asset Value; less
- (b) the liabilities of the Company (excluding the impact of any provision for Performance Fees) as set out in the Company’s most recently reported net asset value statement approved by the Board.

“Party” means a party to this Agreement.

“**Performance Fee**” means the performance fee calculated in accordance with Schedule 1 and payable by the Company to the Manager under clause 7.8 and/or clause 12.5 (as applicable).

“**Portfolio**” means all of the assets and other property of the Company (whether held directly, or through an Investment Entity or a nominee or custodian), which is from time to time under the management of the Manager pursuant to the terms of this Agreement. This includes Portfolio Securities, Unallocated Funds and other current and non-current assets including positive working capital balances, and any Securities acquired as a result of the investment of Unallocated Funds in accordance with clause 3.2.

“**Portfolio Entity**” means the issuer of a Portfolio Security which is held (either directly or indirectly) by the Company.

“**Portfolio Security**” means any Security acquired, or proposed to be acquired, by the Company or an Investment Entity in connection with its investment activities, other than any Security acquired as a result of the investment of Unallocated Funds in accordance with clause 3.2.

“**Security**” means any interest or right to participate in any capital, asset, earnings, royalties, or other property of any person, and includes:

- (a) any interest in or right to be paid money that is, or is to be, deposited with, lent to, or otherwise owing by, any person (whether or not the interest or right is secured by a charge over any property); and
- (b) any other “financial product” as that term is defined in section 7 of the Financial Markets Conduct Act 2013.

“**Shareholder(s)**” means any shareholder(s) of the Company.

“**SIPO**” means the Company’s Statement of Investment Policies and Objectives as at the date of this Agreement, and as may be amended, updated or replaced from time to time in accordance with clause 14.2.

“**SRI Policy**” means the Company’s Socially Responsible Investment Policy and as may be amended, updated or replaced from time to time in accordance with clause 14.2.

“**Substantial Interest**” means a person (directly or indirect) holding 25% or more of the votes exercisable directly or indirectly at a meeting, or being entitled to 25% or more of the profits, of the Manager.

“**Unallocated Funds**” means any cash held by or on behalf of the Company, along with any Securities acquired using surplus cash of the Company in accordance with clause 3.2 from time to time.

“**Valuation Policies**” means the Company’s Investment Valuation Policy as at the date of this Agreement, as may be amended, updated or replaced from time to time by agreement of the Company and the Manager.

1.2 **General Interpretation:** In this Agreement, unless the context requires otherwise:

- (a) “asset” includes the whole and any part of the relevant person’s business, undertaking, investments, revenues and rights (in each case, present and future), and reference to an asset includes any legal or equitable interest in it.
- (b) “control” means, as to any person, the power to manage, directly or indirectly, the operation of the business or control the composition of the board of directors or management of such person or determine the outcome of decisions about the financial or operating policies of that person, whether through the ownership of voting securities, by contract or otherwise and “controlled” and “controls” have corresponding meanings.
- (c) a reference to the Company being “listed” means where any shares in the Company have been admitted to, and are available for, public trading on a recognised stock exchange (and “listed” and “listing” have corresponding meanings) but, for the avoidance of doubt, does not include the Company’s listing on the wholesale marketplace operated by Catalist Markets Limited as at the date of this Agreement.
- (d) borrowing includes indebtedness for or in respect of money borrowed or raised by any means (including acceptances, deposits, financial leases, debt factoring with recourse, sale and repurchase arrangements, and redeemable preference shares) and for the deferred purchase price of assets and services (other than assets and services obtained in the ordinary course of business on normal trade terms), and borrow shall be construed accordingly.
- (e) “costs” include costs, charges, expenses, liabilities and associated taxes.
- (f) a reference to any document or agreement (including this Agreement) includes a reference to that document or agreement as amended, novated or replaced from time to time.
- (g) \$ or dollars refers to New Zealand dollars and, unless otherwise specified, all amounts payable by a Party under this Agreement are to be paid in New Zealand currency.
- (h) the headings are for ease of reference only and are to be ignored in the interpretation of this Agreement.
- (i) including and similar words do not imply any limitation.
- (j) indebtedness includes an obligation (whether present or future, actual or contingent, secured or unsecured, joint or several, as principal, surety or otherwise) relating to the payment of money.
- (k) a reference to a Party includes the person’s executors, administrators, successors and permitted assigns.
- (l) person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, or any authority, in each case whether or not having a separate legal personality.
- (m) the singular includes the plural and vice versa.

- (n) a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether made before or after this Agreement).
- (o) subsidiary has the meaning given to it in section 5 of the Companies Act 1993 (New Zealand) provided that a reference to “company” shall include any company or other legal entity wherever incorporated or registered.
- (p) tax includes any present or future tax, levy, impost, duty, charge, fee, deduction or withholding of any nature (whether or not payable in money) and whatever called (including any interest, penalties, fines and charges in respect of any such tax) imposed by any governmental agency, on whoever imposed, levied, collected, withheld or assessed.
- (q) “quarter” means a financial quarter, being a quarter which begins on the first Business Day of January, April, July or October and quarterly will be construed accordingly.
- (r) “financial year” means each period ending on and including 31 March.
- (s) unless otherwise provided, where this Agreement provides that a matter is to be approved by the Company, for the avoidance of doubt the matter is to be approved by the Board unless the approval of the Shareholders is required by the Constitution or the Companies Act 1993.

2. APPOINTMENT OF MANAGER

- 2.1 The Company appoints the Manager, and the Manager accepts appointment, as the sole and exclusive provider of the Management Services on the terms and conditions contained within this Agreement.
- 2.2 During the term of this Agreement, neither the Company nor any Investment Entity may appoint any other person to provide any Management Services without the express consent of the Manager.
- 2.3 Subject to the terms of this Agreement and the applicable conflict management provisions in the SIPO, the Manager may perform similar services to the Management Services for other persons and may give advice and take action in the performance of its duties for other persons which differs from advice given and taken in relation to the Portfolio, provided that the Manager ensures that an appropriate level of time, attention and effort is expended in providing the Management Services.
- 2.4 Subject to the specific limitations set out in this Agreement, for the purpose of performing its obligations under this Agreement, the Manager shall have the powers and authorities of a natural person to acquire, sell and otherwise deal with and manage the Portfolio and to do all things and execute all documents necessary for the purpose of, acquiring, selling or otherwise dealing with and managing the Portfolio as agent of the Company, provided that nothing in this Agreement shall authorise the Manager to act as agent of the Company or any Investment Entity in excess of the authorities and powers conferred on the Manager pursuant to this Agreement, the Investment Mandate, the CAP and the Delegated Authority Policy, unless otherwise expressly approved by the Board. For the avoidance of doubt, to the extent of any inconsistency between the rights, authorities and powers set out in this Agreement and those set out in any of the Investment Mandate, CAP

and/or the Delegated Authority Policy, the relevant provisions of the Investment Mandate, CAP and/or the Delegated Authority Policy (as applicable) will take priority.

- 2.5 The Manager may appoint any person to provide any Management Services, or perform any of the Manager's other obligations, or exercise any of the Manager's powers, under this Agreement, provided that the Manager:
- (a) believes on reasonable grounds that the person is reliable and competent in relation to the matters concerned; and
 - (b) continues to monitor, to the extent reasonable in the circumstances, the person's performance and exercise of the relevant obligation or power.

No such appointment shall relieve the Manager of any of its duties and obligations under this Agreement (or of liability for any failure to perform those duties and obligations).

- 2.6 The Manager may, with Board approval, and on behalf the Company or any Investment Entity, deal with or engage the services of itself or its Affiliates, which shall be entitled to charge fees, brokerage and commissions to the Company or Investment Entity (as applicable) provided that the dealings:
- (a) are not Management Services to be provided by the Manager under this Agreement; and
 - (b) are on terms no less favourable to the Company or Investment Entity (as applicable) than would have been achieved if they had been negotiated with an unrelated party at arms' length.

No adjustment to the Management Fee is to be made for any amounts paid to the Manager or its Affiliates in accordance with this clause.

- 2.7 In addition to the rights set out in clause 2.6, the Manager and its Affiliates may receive fees for services related to the affairs of any Portfolio Entity (in addition to those fees set out in this Agreement and provided those services are not Management Services), provided those fees are determined in accordance with clause 2.6.
- 2.8 For the avoidance of doubt, nothing in this Agreement will be construed to prohibit the officers (including directors and managers), employees or agents of the Manager or its Affiliates from providing full-time or part-time director services to any Portfolio Entity provided that those fees are determined in accordance with clause 2.6.
- 2.9 Except as provided in clause 2.5 or as otherwise expressly permitted by this Agreement, the Manager may not assign, transfer, or otherwise deal with all or any of its rights or obligations under this Agreement without the prior approval of the Company.
- 2.10 Subject to any limitations in the Delegated Authority Policy, the Manager may appoint (as advisers to the Manager and/or the Company) such legal, accounting, investment banking, specialist consultant and other advisers as it considers necessary or desirable for performing its obligations, or exercising its powers, under this Agreement. The costs and expenses of such advice shall be allocated in accordance with clause 8. No such appointment shall relieve the Manager of responsibility for performing its obligations under this Agreement (or of any liability for any failure to perform those obligations), but the Manager may rely on reports, statements and financial data and

other information prepared or supplied, and on professional or expert advice given, by any such adviser, provided that it relates to matters which the Manager believes on reasonable grounds to be within the competence of the person who has either prepared the information or provided the professional or expert advice.

3. INVESTMENT MANAGEMENT SERVICES

3.1 The Manager shall provide the following Investment Management Services:

- (a) identify investment opportunities:
 - (i) endeavour to identify and develop investment opportunities that meet the Investment Mandate;
 - (ii) where appropriate, carry out such due diligence, and engage such advisers in accordance with this Agreement, as is reasonable to assess any investment opportunity that falls within the Investment Mandate and to determine the structure and terms of any such opportunity; and
 - (iii) purchase or acquire Securities on behalf of the Company or any Investment Entity in accordance with the Investment Mandate on terms that the Manager reasonably believes are prudent and in the best interests of the Company.
- (b) the Manager must use reasonable endeavours to offer, or arrange to be offered, an investment opportunity that falls within the parameters of the SIPO to the Company, before arranging for that opportunity to be offered to a third party;
- (c) subject to the requirements of the SIPO, arrange borrowings for the Company;
- (d) monitor the performance of the Portfolio;
- (e) manage and negotiate on behalf of the Company in respect of any divestment of Portfolio Securities, a Portfolio Entity or any interest in an Investment Entity;
- (f) where the Manager considers it appropriate and has the power to do so on behalf of the Company:
 - (i) provide advice to a Portfolio Entity on behalf of the Company, and to the extent required, and subject to clause 2.6 to clause 2.8, procure and arrange a range of advisory support services to be provided to identified investment opportunities and Portfolio Entities;
 - (ii) attend, vote and represent the Company at any meeting of the creditors or Security holders of a Portfolio Entity;
 - (iii) commence, pursue, compromise or settle any litigation or arbitration proceedings in respect of a Portfolio Entity; and
 - (iv) prove debts, enter into compositions with other creditors and take or join proceedings for having any Portfolio Entity wound up;
- (g) where the Manager considers it appropriate and has the power to do so:

- (i) arrange for representation on the boards of Portfolio Entities;
 - (ii) appoint or remove officers (including directors and managers), employees, agents, sub-contractors or arrange management of Portfolio Entities; and
 - (iii) exercise powers of management itself in respect of a Portfolio Entity; and
 - (h) assist the Company to realise an investment in a Portfolio Entity.
- 3.2 The Manager may, on behalf of the Company, invest surplus cash in short-dated government or bank Securities or such other Securities permitted by the Investment Mandate, or which may otherwise be approved by the Board.
- 3.3 The Manager may enter into any underwriting or sub-underwriting contract on behalf of the Company provided that the liability of the Company under the underwriting or sub-underwriting is consistent with the Investment Mandate, or is otherwise approved by the Board in writing. All commissions and fees payable under such contracts shall be income of the Company, and any Securities or other property acquired pursuant to such contracts will form part of the Portfolio.
- 3.4 The Manager is not required to dispatch to the Company any notice of meeting relating to any Portfolio Entity.

4. ADMINISTRATION SERVICES

- 4.1 The Manager shall perform, or arrange the performance of, the Administration Services and may, in accordance with clause 2.5, employ staff on behalf of the Company to provide such services, or may outsource such functions to third parties (including the Manager's Affiliates or other parties related to the Manager).
- 4.2 From time to time, the Manager or the Company may propose amendments to the scope and/or nature of the Administration Services to be provided by the Manager. Where such amendments are agreed, the Manager will be responsible for updating the Administration Policy, which must be approved by the Company. For the avoidance of doubt, no changes to the Administration Services or the Administration Policy will be permitted unless in writing and agreed to in writing by both the Manager and Company.

5. FUND RAISING SERVICES

- 5.1 Subject to clauses 5.2 and 5.3, the Manager shall be responsible for arranging all equity and debt capital raised by the Company (including through Catalist Markets Limited and other secondary markets) and managing related processes, whether by way of equity placements, debt funding, rights issues or other such processes. The Manager will also be responsible for managing any exercise of the Company's warrants and options by the holders of those instruments. Notwithstanding clause 2.5, the Manager may only sub-contract, or delegate part or all of these duties to appropriately experienced third parties (including financial, legal or other professional advisors) with the prior agreement of the Company (which is not to be unduly withheld or delayed), or pursuant to brokerage agreements (where, for the avoidance of doubt, prior consent of the Company is not required).

- 5.2 The Manager and the Company may at any time agree in writing that the Manager will not be responsible for all or any part of the Fund Raising Services (whether temporarily or on a permanent basis). The Manager may also elect not to provide the relevant Fund Raising Services where the Manager and the Company are unable to agree the relevant fees pursuant to clause 7.9(c) or clause 7.9(d).
- 5.3 The Manager and the Company will jointly approve key terms for any fund raising to be undertaken by the Company, including elements such as pricing, size of offer, debt interest rates, and duration. Any fund raising by the Company must be consistent with the SIPO requirement for on-going solvency, and the Company may, if solvency is at risk, instruct the Manager to arrange an offer on terms required to meet immediate solvency requirements. For the avoidance of doubt, the Manager must not undertake any Fund Raising Services unless and until the Company has obtained approval in respect of that fund raising activity from the Board and, to the extent such approval is required, from Shareholders, or the execution and/or finalisation of those activities is conditional on the Company obtaining such approvals.

6. MANAGER STANDARD OF CARE

- 6.1 The Manager shall at all times:
- (a) act bona fide in what the Manager believes to be in the best interests of the Company in a proper, efficient and business-like manner;
 - (b) exercise due care in exercising the rights, powers and authorities granted to it, and in performing its obligations, under this Agreement;
 - (c) use and employ an appropriate level of skill and resources in performing the obligations of the nature specified in this Agreement;
 - (d) comply with all applicable legal requirements;
 - (e) promptly advise and provide reasonable particulars to the Company of any event having a significant adverse effect on the financial position of the Portfolio or a Portfolio Entity of which the Manager is aware; and
 - (f) provide the Management Services in a manner consistent with the Investment Mandate, the CAP, the Delegated Authority Policy and any other policy applicable to the Management Services as agreed between the Manager and the Company from time to time.

7. MANAGER'S REMUNERATION

- 7.1 The Manager will be paid:
- (a) in respect of the Investment Management Services:
 - (i) the Management Fee and the Performance Fee; and
 - (ii) any fees obtained from Portfolio Entities to be payable to the Manager under clause 2.6 to 2.8;
 - (b) in respect of the Administration Services, the Administration Fee; and

- (c) in respect of the Fund Raising Services (if any), such amounts as determined in accordance with clause 7.9.
- 7.2 Subject to clause 7.7, the Management Fee will be payable to the Manager quarterly in advance.
- 7.3 The Management Fee will become immediately due and payable on the first Business Day after the closing Asset Value for the previous quarter has been approved by the Board, provided that such approval occurs no later than 10 Business Days after the end of the previous quarter.
- 7.4 If the Board is unable to approve the Asset Value within 10 Business Days after the end of the previous quarter, then an interim Management Fee will become immediately due and payable. The calculation of any interim quarterly Management Fee will be based on the most recent Asset Value approved by the Board, adjusted for any known or likely write-downs and expenses (the “**Interim Management Fee**”). Once the Asset Value for the most recently completed quarter has been approved by the Board, the Management Fee due to the Manager will be recalculated and any difference between the Management Fee and the Interim Management Fee will be paid to the Manager or repaid by the Manager (as the case may be).
- 7.5 Except in respect of the Interim Management Fee, the calculation of the Management Fee will be based on the Asset Value as at the last day of the previous quarter.
- 7.6 Payment in respect of any period which is not a complete quarter shall be reduced on a pro-rata basis to reflect the actual number of days elapsed during such period.
- 7.7 If the Manager and the Company agree, the Management Fees payable may be accrued and deferred. In such event, at the option of the Manager, the Company shall pay to the Manager interest on the amount of the fees so deferred at the Interest Rate (calculated on a daily basis) for the period from the due date until the date of payment of the relevant fees.
- 7.8 The Performance Fee will be calculated and paid in accordance with Schedule 1.
- 7.9 If the Manager provides Fund Raising Services in accordance with clause 5.1, the Company shall pay to the Manager as brokerage, the following fees:
- (a) subject to paragraphs (b) and (d), the amount equal to 3% of the value of all equity capital raised by the Company;
 - (b) the amount equal to 0% where Company Securities are issued to directly acquire specified Portfolio Securities;
 - (c) the amount to be agreed between the Company and the Manager, both acting in good faith and with reference to fees actually paid to third parties providing similar services, in respect of all debt capital to be raised by the Company (such agreement to occur prior to the Manager being obliged to commence those Fund Raising Services); and
 - (d) if the Manager and the Company agree to transfer responsibility for some, but not all, of any Fund Raising Services to the Company or a third party under clause 5.2, an amount to be agreed between the Manager and the Company (such agreement to occur prior to the Manager being obliged to commence those Fund Raising Services).

- 7.10 The Company will pay to the Manager any GST chargeable on supplies made by the Manager under this Agreement in addition to, and at the time of payment of, the relevant fee in respect of such supply.
- 7.11 The Management Fee, Performance Fee, Fund Raising Fee and/or Administration Fee may be adjusted upon agreement between the Company and the Manager in accordance with clause 14.1 (in the case of the Management Fee, Performance Fee and/or Fund Raising Fees) and 4.2 in the case of the Administration Fee. Any material adjustment (as determined by the Board, acting reasonably) to the Management Fee or Performance Fee in favour of the Manager shall also be required to be approved by the Shareholders by ordinary resolution in a general meeting or as otherwise required by the Companies Act 1993.
- 7.12 If there has been an under or overpayment of Management Fees, Fundraising Fees and/or Administration Fees or other costs then a correcting payment (as applicable) shall become payable on demand.
- 7.13 If there has been an under payment of Performance Fees, then an additional payment equal to the amount of the under payment shall become payable by the Company to the Manager on demand.
- 7.14 If there has been an overpayment of Performance Fees ("**Overpayment**"), then:
- (a) the portion of the Overpayment paid in the Company's shares in accordance with paragraph 2.5 of Schedule 1, excluding any such shares which have been distributed to the Manager's employees and other participants of any Performance Fee sharing program operated by the Manager which cannot be clawed back, shall be transferred immediately from the Manager to the Company;
 - (b) the portion of the Overpayment paid in cash and not used by the Manager to either pay any taxes levied on the Overpayment portion of the Performance Fee, or which has been distributed to the Manager's employees and any participants of any Performance Fee sharing program operated by the Manager which cannot be clawed back, shall become payable by the Manager to the Company on demand;
 - (c) the portion of the Overpayment paid in cash and used by the Manager to pay any taxes levied on the Overpayment portion, shall either be:
 - (i) in the first instance, repaid by the Manager to the Company following the receipt of a refund those taxes levied on the Overpayment to the Manager; or
 - (ii) in any event, repaid by the Manager to the Company, at the sole discretion of the Manager; or
 - (iii) otherwise, credited against the next Performance Fee payable to the Manager if the Manager has not repaid the relevant amount under (i) or (ii) above.
 - (d) The portion of the Overpayment paid in cash which has been distributed to the Manager's employees and any participants of any Performance Fee sharing program operated by the Manager which cannot be clawed back, shall either be:
 - (i) payable by the Manager to the Company, at the election of the Manager; or

- (ii) credited against the next Performance Fee payable to the Manager, if the Manager does not repay this amount under (i) above.
- (e) In respect of the portion of the Overpayment paid in Company's shares which has been distributed to employees and any participants of any Performance Fee sharing program operated by the Manager which cannot be clawed back, either:
 - (i) the Manager shall, at the sole election of the Manager, transfer the equivalent number of the Company's shares held by it to the Company; or
 - (ii) the equivalent number of the Company's shares shall be credited (by the number of the Company's shares that were overpaid, not by their value) against the next Performance Fee payable to the Manager if the Manager does not surrender the necessary shares under (i) above.

8. COSTS

- 8.1 The Manager shall bear, and shall not be entitled to be reimbursed for, costs it incurs in relation to the establishment and maintenance of its general office infrastructure and overheads related to that infrastructure, including:
- (a) the remuneration of the Manager's employees (other than their remuneration while seconded to the Company, any Investment Entity or any Portfolio Entity) and subcontractors;
 - (b) travel and accommodation for the Manager's employees (other than while performing Administration Services where those costs are not reflected in any Administration Fee payment);
 - (c) rental or other lease costs for the Manager's premises;
 - (d) the cost of office consumables and equipment owned or used by the Manager;
 - (e) telecommunications costs relating to the Manager's employees (other than while seconded to the Company, any Investment Entity or any Portfolio Entity);
 - (f) marketing, sponsorship, website, social media and other promotional activity directed at the New Zealand entrepreneurial community and aiming to increase the quantity and quality of future investment opportunities; and
 - (g) entertainment costs of the Manager.
- 8.2 In addition to the costs set out in clause 8.1, the Manager shall bear, and shall not be entitled to be reimbursed for, costs incurred in connection with Fund Raising Services associated with raising equity and debt capital (for which the Manager will receive the relevant Fund Raising Fees set out in clause 7.9) except for costs of ongoing promotion of any fund raising through the Company's website and promotion and reporting to Shareholders (unless those duties have been assigned to the Company or a third party in accordance with clause 5.1 or clause 5.2).
- 8.3 Except as otherwise set out herein, the Company shall pay and discharge and shall reimburse the Manager in respect of all fair and reasonable expenses incurred by the Manager or any authorised

subcontractor of the obligations of the Manager on behalf of the Company in connection with the Management Services including, without limitation:

- (a) all direct and out of pocket costs, charges, expenses and liabilities associated with or incurred by or on behalf of the Company in connection with the duties of the Manager under this Agreement including, but not limited to, costs of legal, accounting and other advisers engaged by the Manager;
- (b) all costs associated with the raising of debt capital (including principal and financing costs payable to financiers, but excluding the Manager's time and overhead costs referred to in clause 8.1 and clause 8.2 that are incurred in connection with the raising of debt capital);
- (c) all out-of-pocket costs associated with the Administration Services;
- (d) all costs incurred by the Manager (that are not costs referred to in clause 8.1) in connection with the purchase, retention or sale of Investment Entities, Portfolio Entities or Portfolio Securities and all other expenses that are directly related to particular Investment Entities or Portfolio Entities or proposed investments in Portfolio Entities, whether or not actually consummated;
- (e) all on-going expenses incurred in maintaining the purpose and benefit of the legal and tax structure of the Company, including costs of completing and filing tax and other regulatory returns;
- (f) all costs related to the insurance of the Company and the Manager's activities in respect of the Management Services;
- (g) all expenses and costs incurred by the Manager doing any act specifically requested by the Company outside the scope of the Management Services; and
- (h) all costs incurred relating to the liquidation of the Company, any Investment Entity or any Portfolio Entity (where applicable), including the cost of the liquidator.

9. CHANGE OF CONTROL EVENT

- 9.1 During a Change of Control Event, the Company and Manager shall abide by a mutually agreed policy, which will, subject at all times to applicable laws, regulations and/or rules in relation to that Change of Control Event, include a right of the Manager to communicate and/or consult with the Shareholders at times to be agreed with the Company (acting reasonably) in relation to that the Change of Control Event.
- 9.2 Notwithstanding the rights provided to the Manager by clause 9.1, the Manager may not otherwise communicate with the Shareholders regarding any Change of Control Event, unless:
- (a) an agreed policy or procedure permits such a communication to occur; or
 - (b) the Board, at its complete discretion, approves such a communication by the Manager, with each such communication requiring separate Board approval,

and, in each case, such communication is permitted by applicable laws, regulations or other rules relevant to the Change of Control Event.

10. TERMINATION OF MANAGER BY SHAREHOLDERS

10.1 The Manager may be terminated without cause by a resolution of the Shareholders where the percentage of shares held by Shareholders resolving to remove and/or replace the Manager is greater than or equal to 50% of all of the Shareholders. Unless otherwise agreed by the Manager, the termination shall be effective on the one (1) year anniversary of the resolution being passed.

10.2 If the Manager is terminated in accordance with clause 10.1, in addition to any Performance Fee entitlement that has accrued as at the date of termination under clause 12.5, the Manager will receive:

(a) Management Fees calculated in accordance with clauses 7.2 to 7.6 for any period following the resolution referred to in clause 10.1 during which the Manager is required to continue performing Management Services in accordance with that clause; plus

(b) a termination fee equal to:

(i) for the period prior to the Company's listing on the NZX main board or ASX, the lesser of:

(1) twelve (12) times the most recent quarterly Management Fee paid or payable to the Manager in accordance with clause 7 prior to the date on which the resolution to terminate the Manager was passed; and

(2) the relevant "specified amount" under clause 9 of the *Financial Markets Conduct (Shares in Investment Companies) Designation Notice 2017*; and

(ii) for the period following the Company's listing on the NZX main board or ASX, twelve (12) times the most recent quarterly Management Fee paid or payable to the Manager in accordance with clause 7 prior to the date on which the resolution to terminate the Manager was passed.

For the avoidance of doubt, the quarterly Management Fee used to calculate the termination fee shall be adjusted as required to eliminate the impact of any partial or interim quarterly Management Fee payments, and is (subject to the limitation in clause 10.2(b)(i)) intended to pay the Manager a termination fee equal the Management Fees that the Manager would have otherwise received over a three (3) year period from the date of the resolution referred to in clause 10.1 had the Asset Value remained unchanged during that time.

11. TERM AND TERMINATION

11.1 This Agreement shall commence on the Commencement Date and shall continue until terminated in accordance with the provisions of this Agreement. The initial term of this Agreement shall be for the lesser of either ten (10) years from the Commencement Date or five (5) years from the date of the listing of the Company's shares on a recognised stock exchange, unless terminated earlier in accordance with clauses 10.1, 11.3, 11.5 or 11.6.

- 11.2 This Agreement will automatically renew for further terms of five (5) years, unless either the Company or the Manager has given the other Party notice in writing that it does not intend to renew this Agreement not more than 18 months and not less than 12 months prior to the expiry of the then current term. The Company shall only be entitled to decline to renew this Agreement (in circumstances where the Manager is prepared to agree to renew this Agreement) if:
- (a) the Company and the Manager have first discussed in good faith the Manager's performance of the Management Services for a period of not less than 10 Business Days following the date on which notice of non-renewal is given in accordance with clause 11.2;
 - (b) notwithstanding such discussion, the Company continues to be dissatisfied on reasonable grounds with the Manager's performance of the Management Services and the Company refers the question of such performance for review by an independent expert (appointed by agreement between the parties, or if they cannot within 10 Business Days of commencing discussion in that regard, appointed by the President of the New Zealand Law Society or his or her nominee on application by the Company); and
 - (c) following such review in accordance with clause 11.2(b), the summarised results of that review are forwarded to all Shareholders, and the non-renewal by the Company of the appointment of the Manager under this Agreement is thereafter authorised and approved by the Shareholders by ordinary resolution in a general meeting of Shareholders. The Agreement will terminate in accordance with this clause on the later of one (1) year following the date of the resolution of Shareholders, and the end of the then current five (5) year term, and the terms of clause 10.2 will apply to any non-renewal and termination of this Agreement pursuant to this clause.
- 11.3 Subject to clause 11.4, the Company shall be entitled to terminate this Agreement:
- (a) if the Manager fails, neglects or refuses to carry out or perform any material function or action required under this Agreement (other than in circumstances where the Manager is expressly permitted by this Agreement to transfer, assign, delegate or otherwise withhold the performance by it of any Management Services), and the Company suffers or incurs a material loss as a result of such inaction; or
 - (b) if the Manager consistently fails to perform the Management Services to the standard required by clause 6.1(c).
- 11.4 Prior to the Company exercising any rights of termination under clause 11.3, it shall give the Manager written notice of its intent to exercise its rights of termination under clause 11.3 and setting out details of the alleged failure or failures to perform and/or breach of this Agreement and, where possible (for the purposes of clause 11.3(a)), will quantify the material loss incurred as a result of such breach. If the Manager does not, in respect of a matter capable of remedy, remedy the identified failures or breach within 20 Business Days of the date of such notice or, if a matter is not capable of remedy, then the Company shall be entitled by further written notice to immediately terminate this Agreement.

- 11.5 Either the Manager or the Company (the "**Non-Defaulting Party**") may terminate this Agreement immediately by written notice to the other Party (the "**Defaulting Party**"), if the Defaulting Party commits or becomes subject to any of the following events:
- (a) goes into liquidation (other than a voluntary liquidation for the purpose of reconstruction or amalgamation on terms previously approved by the Non-Defaulting Party);
 - (b) a receiver or receiver and manager is appointed in respect of the Defaulting Party;
 - (c) an application is made to the courts or a meeting is called for the purposes of instigating or considering proceedings intended to achieve a result described in clause 11.5(a) or 11.5(b) (unless the Defaulting Party satisfies the Non-Defaulting Party in its reasonable opinion that the application or call for meeting is frivolous or vexatious);
 - (d) the Defaulting Party ceases to be able to pay, or ceases to pay, its debts as they come due;
 - (e) the Defaulting Party enters into any arrangement or composition with its creditors generally (other than with the prior consent of the Non-Defaulting Party);
 - (f) the Defaulting Party is declared to be at risk or a statutory manager of the Defaulting Party is appointed under the Corporations (Investigation & Management) Act 1989;
 - (g) the Defaulting Party commits a material breach of this Agreement and the consequences of that specific breach are not explicitly set out elsewhere in this Agreement, and (if the breach is capable of remedy) the Defaulting Party fails to remedy the breach within 20 Business Days after receipt of written notice from the Non-Defaulting Party requiring it to remedy the breach;
 - (h) the Defaulting Party is guilty of gross negligence which has or has the potential to have a material adverse effect on the other Party; and
 - (i) there is a Manager Change of Control which is not approved in writing by the Company (which approval must not be unreasonably withheld but which may be given subject to a reasonable amendment to the definition of Manager Change of Control in this agreement), in which case the Manager will be the Defaulting Party.
- 11.6 The Manager may resign from its appointment as manager by giving one (1) year's written notice of its intention to resign to the Company. This Agreement will terminate upon the resignation of the Manager taking effect, subject to clause 12.
- 11.7 From the date of termination under clauses 11.3, 11.5, or 11.6 no further Management Fee shall be payable to the Manager, except such fees and other amounts as are due and payable up to the date of such termination, including any accrued Performance Fee.

12. EFFECT OF TERMINATION

12.1 On termination of this Agreement, the Manager shall:

- (a) deliver or cause to be delivered to the Company, all property of the Company or any Investment Entity including all investments in the Portfolio held by the Manager, all data,

information records, certificates, accounting records, correspondence, and all other records relating to the Portfolio, and the affairs of the Company in the possession or under the control of the Manager;

- (b) deliver to the Company all forms of proxy, letters of authority, mandates or powers of attorney which may have been issued to it by the Company or any Investment Entity; and
- (c) if so requested by the Company, obtain the resignation of any employees or officers of the Manager holding office as a director of the Company, any Investment Entity or any Portfolio Entity on behalf of the Company.

12.2 The termination of this Agreement does not affect any:

- (a) transaction properly entered into prior to termination;
- (b) claim by the Manager in respect of fees accrued and costs incurred in respect of the period up to termination;
- (c) other claim which either Party may have against the other Party; or
- (d) clauses which expressly or by implication are intended to survive termination, including clauses 11, 12 and 13.

12.3 The Manager may deal with the Portfolio for up to 15 Business Days from the effective date of termination of this Agreement under clauses 11.1, 11.3 or 11.5 in order to vest control of the Portfolio or any Portfolio Entity in the Company, and during that time the Manager:

- (a) may enter into transactions to settle or otherwise extinguish or offset obligations incurred by the Manager in relation to the Company or Portfolio Entity before that date;
- (b) must, with respect to obligations not capable of settlement before transfer of the Portfolio, create provision for such contingent liability as will arise, notify the Company of that provision, and direct the Company to hold sufficient assets of an Investment Entity or a Portfolio Entity to satisfy that liability; and
- (c) may deal with the Portfolio, Investment Entities and Portfolio Entities in accordance with the instructions from a new manager appointed by the Company or on instruction from the Company.

12.4 Other than as provided above, the Manager is under no obligation to do anything in connection with the Portfolio or management of the Portfolio after the effective date of termination.

12.5 On termination of this Agreement, the Manager will receive any accrued Performance Fee entitlement (if applicable and when due) based on the Market Value at the date of termination. The Company will pay the Manager the Performance Fee determined in accordance with this clause immediately on termination.

13. LIMITATION OF LIABILITY

13.1 No warranty is given by the Manager as to the performance or profitability of the Company, any Investment Entity, the Portfolio, any cash or any other asset forming part of, or constituting the

assets of the Company or in respect of any distributions nor does the Manager make any representations concerning any of these matters.

13.2 The Manager, and its Affiliates, officers (including directors and managers), partners, employees, consultants, sub-contractors, advisors and agents, shall not be liable for any loss or damage whatsoever which the Company or any Shareholder may sustain or suffer as a result of the exercise or performance by the Manager (or failure of the Manager to exercise or perform or any error of judgement by the Manager in respect thereof) of any of the powers, obligations and duties of the Manager under this Agreement or loss of opportunity whereby the value of any assets in the Portfolio would have increased, or for any decline in the values of any assets in the Portfolio howsoever arising, except to the extent that such loss, damage or decline is due to its gross negligence, intentional fraud, dishonesty or wilful default.

13.3 The Company indemnifies and shall keep indemnified the Manager, and its Affiliates, officers (including directors and managers), partners, employees, consultants, sub-contractors, advisors and agents, (each an "**indemnified party**") from and against any and all costs, obligations, losses or suits, of any kind or nature whatsoever in connection with the services provided by any of them pursuant to this Agreement and each of them is on demand indemnified out of the assets of the Company against any and all claims, liabilities (including in contract or tort), including:

- (a) amounts paid in satisfaction of judgements, in compromise settlements, fines, and penalties; and
- (b) counsel fees reasonably incurred,

in connection with the defence or disposition of any action, suit or other proceeding, whether civil or criminal, before or threatened to be brought before any arbitrator, mediator, court or administrative or legislative body, in which an indemnified party may be or may have been involved as a party or otherwise or with which it or they may be or may have been threatened, while in office or thereafter (and the reasonable costs and expenses, including but not limited to legal costs, in relation to enforcement of the indemnity) ("**indemnified costs**") provided that the indemnity contained in this clause shall not cover or extend to any indemnified costs resulting from the gross negligence, intentional fraud, or wilful default of an indemnified party.

13.4 Each indemnity in this Agreement is a continuing obligation separate and independent from the other obligations of the Parties and survives termination of this Agreement.

14. GENERAL

14.1 This Agreement may only be amended or supplemented in writing signed by the Parties.

14.2 From time to time, the Manager or the Company may review and propose amendments to the SIPO, SRI Policy, CAP and/or the Delegated Authority Policy to reflect the activities of the Company, including developments in the markets and opportunities available to the Company and/or the Manager. Each Party agrees to consider any amendments proposed by the other in good faith and in a timely manner. For the avoidance of doubt, any changes to the SIPO, SRI Policy, CAP

and/or the Delegated Authority Policy must be agreed in writing by the Manager and the Company other than such changes to those documents that are:

- (a) necessary to correct a manifest error or inconsistency with this Agreement; or
- (b) necessary (in the reasonable opinion of the Manager) to ensure compliance with its obligations under this Agreement,

which may be made by the Manager without the prior consent of the Company provided that the Manager promptly provides notice of those changes to the Company.

- 14.3 Where the Manager and Company cannot agree to an amendment to the SIPO, SRI Policy, CAP and/or the Delegated Authority Policy (as relevant) proposed under clause 14.2, the status quo will apply, and the proposed change will not be made.
- 14.4 The persons who are authorised to make any written communication or take action on behalf of the Company under this Agreement ("**Authorised Persons**") are the directors of the Company from time to time. Any written communication or action taken on behalf of the Company must be authorised by any of the Authorised Persons, provided that any Authorised Person that is also an officer (including a director or a manager), employee or contractor of the Manager will not be authorised to give any communication to, or take any action in respect of, the Manager on behalf of the Company.
- 14.5 The Manager is not obliged to take any action if a communication or action is not made by an Authorised Person nor to enquire as to the identity of any person if it reasonably believes such person is an Authorised Person.
- 14.6 If the Manager receives any instruction or notice in circumstances where it is reasonable for the Manager to assume it was from an Authorised Person, the Manager is not liable for any properly performed action or omission by the Manager in reliance on that instruction or notice.
- 14.7 The Manager, and its officers (including directors and managers), employees, advisors, sub-contractors or agents shall not be liable for any loss of or damage to the Portfolio or for any failure, interruption or delay to fulfil its duties under this Agreement, if the loss, damage, failure, interruption or delay is caused directly or indirectly by any force majeure event beyond its reasonable control. The Manager and its directors must use their reasonable efforts to minimise the effects of the events referred to in this clause.
- 14.8 The failure, delay, relaxation or indulgence on the part of any Party in exercising any power or right given to that Party does not operate as a waiver of that power or right to preclude any other or further exercise of it or the exercise of any other power or right under this Agreement. A power or right may only be waived in writing, signed by the Party to be bound by the waiver.
- 14.9 Except as otherwise provided in this Agreement, no Party may assign or transfer in whole or in part any of its rights or obligations under this Agreement without the prior written consent of the other.
- 14.10 Each Party shall do, sign, execute and deliver and shall procure that each of its officers, employees and agents, signs, executes and delivers all agreements, documents, instruments and acts

reasonably required of it or them by notice from the other Party to effectively carry out and give full effect to the Parties' intentions as evidenced by this Agreement.

14.11 For the avoidance of any doubt, this Agreement shall not be construed as conferring any benefits enforceable at the suit of any third parties, except clauses 2.3, 13 and 14.7 which shall be enforceable by the, officers (including directors and managers), employees, advisers and agents of the Manager as referred to in those clauses.

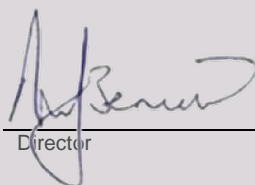
14.12 The Manager must provide to the Company and any relevant regulator, on reasonable notice to the Manager at any reasonable time, access to and copies of any documents or information held by the Manager in relation to the Company and/or the Portfolio, together with all reasonable assistance, that is reasonably required by that person.

14.13 This Agreement may be signed:

- (a) in any number of counterparts, each of which is deemed an original, but all of which together constitute a single instrument; and
- (b) on the basis of an exchange of scanned PDF or other electronically transmitted copies, and signing of this Agreement by that method is a valid and sufficient execution.

14.14 This Agreement (together with those documents expressly referred to in this Agreement) constitutes the entire agreement and understanding (express or implied) between the Parties relating to its subject matter and replaces and supersedes the management agreement between the parties dated 25 March 2014 and all other arrangements (whether written or oral) on and from the Commencement Date.

SIGNED for and on behalf
of **PUNAKAIKI FUND LIMITED**

)
) 

Director

SIGNED for and on behalf
of **2040 VENTURES LIMITED**

)
) 

Director

**SCHEDULE 1
CALCULATION OF FEES**

1. MANAGEMENT FEE

- 1.1 The Company shall pay the Manager, each quarter, a Management Fee that is an amount equal to 25% of the aggregate of:
- (a) \$250,000; plus
 - (b) 1.5% of the Asset Value.

2. PERFORMANCE FEE

- 2.1 The Company shall pay the Manager a Performance Fee for achieving excess returns as calculated below.
- 2.2 The Performance Fee shall be an amount equal to the aggregate of 20% of the Tranche Return applicable to each Share Tranche, provided that:
- (a) the Tranche Value exceeds the Performance Threshold Value; and
 - (b) the Tranche Value exceeds the Tranche High Water Mark.

If the Tranche Value does not exceed the Performance Threshold Value or the Tranche Value does not exceed the Tranche High Water Mark, then no Performance Fee is payable.

- 2.3 For the purposes of calculating the Performance Fee:

- (a) **"Initial Tranche Value"** means the subscription price per share of the relevant Share Tranche multiplied by the number of shares on issue for that Share Tranche.
- (b) **"Liquidity Event"** means any of the following:
 - (i) completion of, or concurrently with, a return of capital (including share buy-backs), dividend payment or other distribution by the Company;
 - (ii) where the Company's securities are listed, on the date following that listing as agreed between the Manager and the Company and on the last day of each subsequent financial year of the Company;
 - (iii) on the date of termination or expiration of this Agreement; and
 - (iv) each such other date determined by Board where the Board is reasonably satisfied payment of the Performance Fee would be equitable to the Company and the Manager.
- (c) **"Performance Period"** means (as applicable):
 - (i) the time between each Liquidity Event; or
 - (ii) the period up to the first Liquidity Event;
- (d) **"Performance Threshold Value"** means, in respect of each Share Tranche, an annualised increase of 10% applied from the Initial Tranche Value over the period starting on the date

when the Share Tranche was issued and ending on the date of the relevant Liquidity Event, as adjusted to reflect the effect of any dividend, or distribution (including the value of any in specie distribution and any imputation credits but excluding any non-pro rata distribution) paid in respect of that relevant Share Tranche during the period for calculation of the relevant Performance Fee;

- (e) "**Share Tranche**" means each individual grouping of ordinary shares in the Company which share both the same issue date and issue price;
- (f) "**Tranche High Water Mark**" means the highest Tranche Value for the applicable Share Tranche that has been used in the previous payment of a Performance Fee in respect of that Share Tranche. If no Performance Fee has been previously paid for a Share Tranche, then the Tranche High Water Mark shall be equal to the Initial Tranche Value;
- (g) "**Tranche Return**" means the Tranche Value minus the Tranche High Water Mark as applicable to each Share Tranche; and
- (h) "**Tranche Value**" means the Market Value applicable to a Share Tranche at the date of the relevant Liquidity Event, plus the gross amount of any dividend or distribution (including the value of any in specie distribution and any imputation credits but excluding any non-pro rata distribution) paid in respect of that relevant Share Tranche during the period for calculation of the relevant Performance Fee.

For the avoidance of doubt, if any share split, consolidation, cancellation, other rearrangement or reconstruction or dividend or distribution (including the value of any in specie distribution and any imputation credits but excluding any non-pro rata distribution) occurs in respect of a Share Tranche, each of the Tranche Value, the Performance Threshold Value and the Tranche High Water Mark shall be adjusted accordingly as required to ensure that the Manager is no better off or worse off as a result of such action.

- 2.4 The Performance Fee shall be calculated and paid as soon as practicable following the end of the relevant Performance Period to the Manager or its nominee or nominees.
- 2.5 Subject to paragraph 2.7, one half (50%) of any Performance Fee will be paid to the Manager or its nominee or nominees (as directed by the Manager in writing from time to time) in the form of ordinary shares in the Company, with those shares to be issued at a price equal to the Market Value fairly attributable to each ordinary share then on issue. The balance of the Performance Fee is to be paid in either cash or shares (or a mixture of cash and shares), as elected by the Manager in writing and at its sole discretion. For the avoidance of doubt, where the Company is not entitled to pay all or part of the Performance Fee in shares under paragraph 2.7, the entire Performance Fee will be payable in cash.
- 2.6 The Manager, or any of the Manager's nominees that have received shares as part of a Performance Fee payment in accordance with paragraph 2.5, and any of the Manager's employees or other participants of any Performance Fee sharing programme implemented by the Manager, as the case may be, may not sell any shares received in settlement of a Performance Fee payment for a period of three (3) years from the issue of those shares (other than with the prior approval of the

Company) and must in any event comply with all relevant legal requirements in doing so. For clarity, this paragraph does not restrict the Manager from distributing any shares received as part of a Performance Fee payment to any of the Manager's employees or other participants of any Performance Fee sharing programme implemented by the Manager, providing that the Manager causes those recipients to be otherwise bound by this paragraph.

- 2.7 The payment of any Performance Fee to the Manager in the form of shares as contemplated by paragraph 2.5:
- (a) is subject at all times to the Company having received all consents (including Board and Shareholder approvals as required) and complying with all applicable laws in respect of the issue or transfer of those shares;
 - (b) will not be permitted where the Agreement is terminated by resolution of Shareholders in accordance with clause 10.1 or clause 11.2; and
 - (c) will not be permitted upon any other termination of this Agreement by the Company where the Manager gives written notice to the Company requiring such payment to be wholly in cash.
- 2.8 The Company and the Manager may mutually agree to change the structure and payment terms of the Performance Fee. These changes will not be considered to be material for the purposes of clause 7.11. For clarity, this may include payments of the Performance Fee in 100% cash.