

**MAINSRING NOMINEES LIMITED**

**and**

**MMC VENTURES LIMITED**

**14 August 2019**

**AMENDED AND RESTATED CUSTODY AGREEMENT  
REVISED MAY 2020**



Mainspring Nominees Limited  
20-22 Bedford Row, London, WC1R 4EB

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**THIS AMENDED AND RESTATED CUSTODY SERVICES AGREEMENT** (the "**Agreement**") is dated and will become effective on **14 August 2019** (the "**Effective Date**")

**BETWEEN**

- (1) **MAINSRING NOMINEES LIMITED** a company incorporated under the laws of England and Wales with registered number 08255713 whose registered office is at 20-22 Bedford Row, London, WC1R 4EB ("**Mainspring**"); and
- (2) **MMC Ventures Limited** a limited company incorporated under the laws of England and Wales with registered number 03946009 whose registered office is at 3<sup>rd</sup> Floor, 2 Kensington Square, London, W8 5EP (the "**Manager**"),

each a "**Party**" and together the "**Parties**".

**BACKGROUND**

- (A) The Parties executed a custody agreement dated 1 July 2013 (together with any amendments) (the "**Original Custody Agreement**"). The Parties now wish to amend and restate the Original Custody Agreement by executing this Agreement.
- (B) The Parties have agreed that by executing this Agreement the Original Custody Agreement will be replaced in its entirety and be superseded by this Agreement with effect from the Effective Date.

**WHEREAS**

- (A) The Manager is authorised and regulated by the FCA with firm reference number 193704 and has been appointed to provide and/or arrange investment management and custodial services by a number of its segregated account clients (each an "**Investor**" and together the "**Investors**"). The Manager would like to sub-delegate the provision of custodial services to such Investors to Mainspring.
- (B) Mainspring is authorised and regulated by the FCA for the safeguarding and administering of investments and related services and has been requested to provide the Services to the Manager under this Agreement. Mainspring is registered on the FCA's register with firm reference number 591814.
- (C) The Manager wishes to appoint Mainspring as global custodian of the Portfolios and Mainspring agrees to such appointment on the terms and subject to the conditions of this Agreement.

**THE PARTIES AGREE THAT:**

**1 DEFINITIONS**

- 1.1 The terms governing this Agreement shall be interpreted in accordance with the definitions and rules of interpretation set out in Schedule 1.

**2 APPOINTMENT**

- 2.1 The Manager hereby appoints and authorises Mainspring to provide the Services and Mainspring agrees to such appointment on the terms and subject to the conditions of this Agreement.
- 2.2 The Parties acknowledge that Mainspring will not provide advice on the merits of transactions or assess the suitability of transactions it carries out as part of providing the Services. The Manager will, and consents to Mainspring relying on the Manager to, perform any suitability or appropriateness requirements under the FCA Rules applicable to the provision of the Services.
- 2.3 For the avoidance of doubt, the Services shall not include investment advice or advice on the legal, taxation or other financial consequences which might be caused or suffered, directly or indirectly, as a result of any transaction in which Mainspring is involved on the Manager's behalf. Furthermore, the Services do not include any separate administration or similar service other than administration services necessary for and arising from or in connection with provision of the Services.
- 2.4 By entering into the Agreement as agent for the Investor, the Manager represents and warrants on a continuing basis that:

- a) it has full power and authority to enter into and implement this Agreement on behalf of the Investors and Mainspring need deal only with the Manager, and can hold the Manager liable, as if the Manager were the Investor;
- b) it has full power and authority and is permitted under the FCA Rules and according to the terms of its written agreement with the Investor, to receive on the Investor's behalf all communications and notices directed at the Investor and to give required confirmations and consents on behalf of the Investor;
- c) when Mainspring seeks to discharge an obligation, to give a notice to the Investor, or obtain consent from the Investor, Mainspring may discharge that obligation by providing the notice to or receiving the consent from or through the Manager; and
- d) the Manager shall obtain the consent of the Investor where it is necessary to do so in order to fulfil any of its obligations or give any consents under this Agreement.

2.5 In providing the Services, Mainspring is entitled to take any action or to refuse to take any action that Mainspring regards as necessary for Mainspring to comply with the FCA Rules or any applicable law.

2.6 Mainspring may, from time to time and in its sole discretion, offer other specific services to the Manager such as management accounting services, the administration of limited partnerships and trusts and companies, nomineehips, financial and money services, debt collection and the service of process agency. Mainspring will only provide any such additional services if the Parties agree specific additional terms relating to such services in advance in writing.

### **3 STANDARD OF CARE**

3.1 Mainspring shall perform its obligations under this Agreement in accordance with the Regulatory Rules and the Standard of Care.

### **4 CLIENT CATEGORISATION**

4.1 For the purposes of the FCA Rules, in accordance with COBS 2.4.3 R(1), and based on information obtained in respect of the Manager, Mainspring will treat the Manager as its client and has categorised the Manager as a professional client for the Services.

4.2 It is the responsibility of the Manager to request a categorisation with a higher level of protection when the Manager deems it is unable to properly assess or manage the risks involved. This may apply in general or to one or more services or products. Any change of categorisation must be agreed in writing by Mainspring. It is the Manager's sole responsibility to inform Mainspring about any change to the Manager's circumstances that might affect the determination by Mainspring of the appropriate categorisation of the Manager. Mainspring currently only provides services to professional clients and eligible counterparties, as defined by the FCA Rules.

### **5 MANAGER OBLIGATIONS**

5.1 The Manager will be responsible for all contact with Investors, including:

- a) advising them of necessary action if they wish to make investments. The Manager acknowledges that Mainspring will only be able to subscribe for an issue or make a payment on an Investor's behalf on receipt of cleared funds from them in Mainspring's client account prior to the date of subscription for new shares (or other securities) or payment. Mainspring will inform the Manager as required when cleared funds have been received by Mainspring from the relevant Investors;
- b) distributing documents such as valuation statements, contract notes, EIS certificates, or tax information (or instructing Mainspring to email directly to Investors or upload to the reporting website, as the case may be); and
- c) dealing with any questions from Investors on their investments.

5.2 To enable Mainspring to assume and continue to carry out its duties under this Agreement, the Manager shall (whether itself, on the Investor's behalf, or by ensuring that the Investor completes

such actions) complete such transfers, mandates or other documents and do such acts and things as shall be within its power from time to time required by Mainspring to bring the Securities and/or Cash which are the subject of the Services under Mainspring's, a Nominee's or a Sub-Custodian's control and to enable Mainspring, a Nominee or a Sub-Custodian to deal with it as custodian at the commencement of or at any time during the term of this Agreement, provided that Mainspring may, in its absolute discretion, decline to accept (in whole or in part) any Securities or Cash which the Manager requests Mainspring to hold.

- 5.3 The Manager agrees to provide, and if reasonably requested by Mainspring to execute any further, documents, materials and information as may be reasonably requested by Mainspring to enable it to perform its duties and obligations under this Agreement.
- 5.4 The Manager shall notify Mainspring of the Cash and Securities to be received for the Portfolio.
- 5.5 The Manager acknowledges and agrees that it has full responsibility for all decisions regarding the investment by the Manager in any Securities, and that Mainspring is neither responsible nor liable in any way whatsoever to assess, advise, or to exercise any judgement, on behalf of the Manager, in relation to the relative merits, suitability or appropriateness of any Securities, market or transaction, nor for the selection, acquisition and disposal of Securities which remain the responsibility of the Manager at all times.
- 5.6 The Manager shall be solely responsible for compliance with any notification or other requirement of any jurisdiction relating to or affecting the Manager's beneficial ownership of the Securities and Mainspring assumes no liability for non-compliance with such requirements unless otherwise set out in this Agreement.
- 5.7 The Manager will give prior written notification to Mainspring of all Manager obligations under this Agreement that the Manager has appointed an agent to undertake on its behalf.

## **6 ESTABLISHMENT OF ACCOUNTS**

- 6.1 The Manager authorises Mainspring to establish on its books, for each of the Manager's Portfolios as Instructed by the Manager and pursuant to the terms of this Agreement, Securities Account(s) and Cash Account(s).
- 6.2 Mainspring's obligation to open up the Custody Account is conditional upon Mainspring receiving an application form signed by the Investors.
- 6.3 Once the Custody Account has been established pursuant to Clause 6.2, where Mainspring has received any Securities and Cash from or on behalf of the Investor, Mainspring will only hold such Securities and Cash until it is in receipt of an AML Confirmation from the Manager. Mainspring will open the Custody Account in relation to those Investors listed in the AML Confirmation. The AML Confirmation will be signed by the Manager and sent to Mainspring via email in accordance with [paragraph 3] of Schedule 3. For the avoidance of doubt, this Clause 6.3 shall be without prejudice to Mainspring's role to accept and deposit subscription monies received from Investors in respect of their subscriptions to the Fund in accordance with the SLA.
- 6.4 The provision of the AML Confirmation implies that the Manager has consented for it to be relied upon. Therefore, upon receipt of the AML Confirmation by Mainspring, Mainspring will be able to rely on the Manager's affirmation that they have carried out the relevant anti-money laundering and KYC checks, and that such information and such further documents as may be reasonably requested by Mainspring, can be relied on to enable it to perform its duties and obligations pursuant to this Agreement.
- 6.5 The Parties acknowledge that notwithstanding any other provision of this Agreement, the assets of each Portfolio shall be segregated from the assets of other Portfolios and shall at all times remain the sole property of the Investor; and shall not, other than on the Manager's Instructions be used to discharge (directly or indirectly) the liabilities of or claims against any other Portfolio, and shall not be available for such purpose, and any liability incurred on behalf of or attributable to any Portfolio shall be discharged solely out of the assets of that Portfolio.

- 6.6 The duties and obligations of Mainspring and its Delegates to hold Securities and Cash shall extend only to Securities and Cash properly delivered to and accepted by them, and under their control.
- 6.7 The Manager hereby acknowledges and agrees that:
- a) Securities held by Mainspring and its Delegates may be combined with Securities belonging to other clients of Mainspring or the Delegates;
  - b) the Manager shall not have any rights to the redelivery of the same Securities as originally deposited with Mainspring or Delegates but will instead be entitled to Securities of the same number, class, denomination and issue as those originally deposited;
  - c) where Securities are held in an omnibus account together with, or registered collectively in the same name as, securities held by Mainspring or Delegates for other clients, the Manager's entitlements may not be identifiable by separate certificates, other physical documents of title or equivalent electronic records, and accordingly in the event of an irreconcilable shortfall, any shortfall may be shared pro-rata among all the clients of Mainspring or the Delegate (including the Manager) whose securities are held in such omnibus account or registered in such name;
  - d) where Securities and Cash are held in countries outside of the UK, there may be settlement, legal and regulatory requirements in overseas jurisdictions which are different from those in the UK, and there may therefore be different practices for the separate identification of client assets in those jurisdictions and the Manager's rights in relation to such Securities and Cash may differ accordingly; and
  - e) holding or agreeing to hold the Cash, or the Securities, subsequently purchased by using the Cash or Securities, outside the UK shall not constitute a warranty or representation by Mainspring that a particular regulatory, legal, or tax treatment will be available in respect of either the Cash or Securities.

## **7 SECURITIES ACCOUNT PROCEDURES**

- 7.1 The Investor shall retain at all times exclusive beneficial ownership of the Securities, and the Securities Account will indicate that Securities do not belong to Mainspring and will be segregated from Mainspring's assets. Mainspring will, or will arrange for its Delegates to, identify in its books that the Securities belong to the Portfolio and the amount that is attributable to the Securities Account.
- 7.2 Documents evidencing title to Securities will be held in the physical possession of Mainspring, a Nominee or a Sub-Custodian. Mainspring shall segregate such documents from any such documents of Mainspring and shall take all reasonable measures to ensure such segregation where documents are held by a Nominee or Sub-Custodian.
- 7.3 Mainspring may arrange for Securities that are UK equities to be held through the CREST system when eligible. Other UK Securities may be held in certificated form.
- 7.4 Mainspring will determine in its reasonable discretion whether to accept for custody in the Securities Account, Securities of any kind. Mainspring is not obligated to credit Securities to the Securities Account before receipt of such Securities by final settlement.
- 7.5 Mainspring shall exercise reasonable care in receiving Securities but does not warrant or guarantee the form, authenticity, value or validity of any Security received by Mainspring. If Mainspring becomes aware of any defect in title or forgery of any Security, Mainspring shall promptly notify the Manager.
- 7.6 If Mainspring has received Instructions that would result in the delivery of Securities exceeding credits to the Securities Account for that Security, Mainspring may reject the Instructions or may decide which deliveries it will make (in whole or in part and in the order, it selects).
- 7.7 The Manager shall bear the risk and expense associated with investing in Securities denominated in any currency.

7.8 Other than as permitted in this Agreement under Clause 26, the Securities shall not be used to discharge directly or indirectly liabilities or claims against any other undertaking or entity and shall not be available for any such purpose.

## **8 CASH ACCOUNT PROCEDURES**

8.1 The Manager acknowledges and agrees that Mainspring may appoint a bank or banks to hold Cash held for all Investors in a 'client bank account' as defined in the FCA Rules (a "**Client Bank Account**"). Mainspring will record the specific interests of the Investor in such account. Usually, Cash held in such an account will be held by the bank as banker and the bank may not be required to hold the Cash as trustee or in accordance with the FCA Rules on Client Money (the "**Client Money Rules**"). Therefore, in some cases, the Cash may not be segregated from such bank's own money and may be used in the course of that bank's business, and Mainspring acting on behalf of the Manager will rank only as a general creditor of the bank.

8.2 However, Mainspring has elected to hold Cash as client money as defined in the FCA Rules ("**Client Money**") in accordance with Client Money Rules and will only transfer Client Money to a third party in accordance with the FCA Rules.

8.3 Accordingly, prior to opening a Client Bank Account, Mainspring shall require from the relevant institution an 'acknowledgement of trust' document that satisfies the requirements in rule CASS 7.8.1R of the FCA Rules (or its successor rule from time to time). Consequently, the bank will not have any recourse or right against the Cash held in the Client Bank Account in respect of any sum owed to them, or owed to any third party on any other account and the bank cannot combine the Client Bank Account with any other account, or any right of set-off or counterclaim against Cash in the Client Bank Account. The bank will be required to release on demand all Cash standing to the credit of the Client Bank Account except for any charges incurred and due to the bank for the operation of the Client Bank Account.

8.4 Mainspring will provide information to the Manager with respect to such accounts as is required by the Client Money Rules, and the Manager will communicate such information to each Investor with respect to such accounts as required by the Client Money Rules and, when necessary, shall obtain appropriate consents from and shall give appropriate notifications to each Investor.

8.5 Mainspring will act in accordance with the Standard of Care in the selection, appointment and periodic review of the bank or banks appointed to hold Cash held on the Manager's behalf and the arrangements for the holding of such Cash.

8.6 Upon the Manager's written request, and provided Mainspring is permitted to do so by the FCA Rules and applicable Law, Mainspring may agree to hold Cash with a particular entity outside the UK or with entities of a particular jurisdiction. For the purposes of Clause 8.5 Mainspring shall not be considered to have selected or appointed any entity appointed under this Clause 8.6.

8.7 In the course of providing the Services, Mainspring may allow another person, such as an exchange or broker, to hold or control the Manager's Cash, but only when Mainspring transfers the Cash for the purpose of a transaction for the Manager, with or through that person, or to meet the Manager's obligation to provide collateral for a transaction. In such circumstances the Cash may be passed outside the UK.

8.8 Mainspring will determine in its reasonable discretion whether to accept for deposit in the Cash Account Cash in any currency. Mainspring shall hold for the account of the Manager, pay out or deal with all Cash on behalf of the Manager in such manner as set out in this Agreement or otherwise pursuant to Manager Instructions.

8.9 Mainspring is not obliged to make a credit or debit to the Cash Account before receipt by Mainspring of a corresponding and final payment in cleared funds. If Mainspring makes a credit or debit before such receipt, Mainspring may at any time reverse all or part of the credit or debit (including any interest thereon), make an appropriate entry to the Cash Account, and if it reasonably so decides, require repayment of any amount corresponding to any debit.

- 8.10 Mainspring is not obliged to make any debit to the Cash Account that might result in or increase a debit balance. Mainspring may make any debit to the Cash Account even if this results in (or increases) a debit balance. If the total amount of debits to the Cash Account in any time would otherwise result in a debit balance or exceed the immediately available funds credited to the Cash Account, Mainspring may decide which debits it will make (in whole or in part and in the order, it selects).
- 8.11 Unless otherwise agreed between the Parties in writing, all interest earned on Cash held in Cash Accounts will be allocated quarterly during January, April, July and October. If relevant, details of interest rates from time to time will be supplied on request.
- 8.12 The Manager acknowledges that the allocation of cash receipts to the Cash Account may result in fractional entitlements of less than a penny. In such cases, having taken adequate steps to allocate such receipts to the relevant Cash Account on a basis that enables their fair distribution, Mainspring may in circumstances agreed with the Manager and where consistent with the FCA Rules, cease to treat the fractional entitlements as Client Money of the Investor.
- 8.13 The Manager shall bear the risk and expense associated with Cash denominated in any currency. Unless Mainspring receives Instructions from the Manager to the contrary, Mainspring shall itself or arrange for another party to convert the amount received into pounds' sterling and credit the relevant Custody Account with the conversion proceeds.
- 8.14 The Manager acknowledges and agrees that Cash Account deposits are subject to cross-border risk, and therefore Mainspring will have no obligation to make payment of deposits if and to the extent that Mainspring is prevented from doing so by reason of applicable law or regulation or any Sovereign Risk event affecting the currency in which the applicable deposit is denominated.
- 8.15 The Manager agrees that:
- a) if there has been no movement on a Client Money balance in a Cash Account of less than £1,000 for a period of at least six years (notwithstanding any payments or receipts of charges, interest or similar items); and
  - b) Mainspring has taken reasonable steps to contact the Manager to return the balance,
- Mainspring may cease to treat the balance as Client Money. Before doing so Mainspring will write to the Manager informing the Manager of Mainspring's intention to do so and giving the Manager at least 28 days to notify the relevant Investor such that they can claim the balance. Mainspring will make good any valid claim against released balances.

## **9 PERFORMANCE BY MAINSPRING**

- 9.1 Mainspring shall carry out the following actions only upon receipt of and in accordance with specific Instructions:
- a) make payment for and/or receive any Securities or deliver or dispose of any Securities except as otherwise specifically provided for in this Agreement;
  - b) deal with Rights, conversations, options, warrants and other similar interests or any other discretionary right in connection with Securities;
  - c) carry out any action affecting Securities, Cash or the Custody Account other than those specified in this Clause 9.1 but in each instance subject to the written agreement of Mainspring.
- 9.2 Absent of a contrary Instruction, Mainspring shall carry out the following without further Instructions:
- a) in the Manager's name or on its behalf, sign affidavits, certificates of ownership and other certificates and documents relating to Securities which may be required to obtain any Securities or Cash, or for disclosure purposes to evidence beneficial ownership to any tax or regulatory authority. Mainspring will notify the Manager within reasonable time prior to the

provision of such documentation to such authority unless not practicable or Mainspring is under a legal or regulatory obligation not to do so;

- b) collect, receive, and/or credit the Custody Account, as appropriate, with all income, payments and distributions in respect of Securities and any capital arising out of or in connection with Securities (including all Securities received by Mainspring as a result of a stock dividend, bonus issue, share sub-division or reorganisation, capitalisation of reserves or otherwise) and take any action necessary and proper in connection therewith;
- c) exchange interim or temporary receipts for definitive certificates, and old or overstamped certificates for new certificates;
- d) open Cash and Securities accounts in the name of the Portfolio with other financial institutions provided that such accounts are subject only to drawings, instructions or orders by Mainspring;
- e) endorse for collection, in the name of the Manager, cheques, drafts and other negotiable instruments;
- f) notify the Manager of notices, circulars, reports and announcements which Mainspring has received, in the course of acting in the capacity of custodian, concerning Securities held on the Manager's behalf that require discretionary action. Mainspring is not responsible for the form, accuracy or content of any notice, circular, report, announcement or other material not prepared by Mainspring, including the accuracy or completeness of any translation provided by Mainspring in regard to such forwarded communication;
- g) make any payment by debiting the Cash Account or any other designated account of the Manager with Mainspring as required to effect any Instruction;
- h) attend to all non-discretionary matters in connection with anything provided in this Clause 9.2 or any Instruction;
- i) deliver to the Manager, transaction advices and/or regular statements of account showing the Securities and Cash held at such intervals as may be agreed between the Parties subject to applicable Regulatory Rules; and
- j) provide reporting on the Manager's Securities and Cash positions; and
- k) comply with all necessary reporting obligations relating to statements of the Manager's financial instruments or funds as required under the FCA Rules.

9.3 Mainspring may not enter into arrangements for securities financing transactions or otherwise use assets in the Custody Account for its own account or the account of another client (including where held on behalf of a client in an omnibus account maintained by a third party) unless the Manager has given express prior written consent and the use is restricted to the terms specified in writing by the Manager.

9.4 The Manager may, in its discretion, engage Mainspring or an Affiliate to execute foreign exchange transactions upon Instructions for the account of the Manager as agreed between the Parties in writing. The Manager hereby acknowledges and accepts that when Mainspring or its Affiliate is so engaged it may be dealing as principal with the Manager, or acting as agent for the counterparty as well as for the Manager, and that Mainspring may be remunerated or make profits from those activities.

9.5 Mainspring shall, pursuant to Instructions, be responsible for the execution of subscription documentation in connection with the purchase of units or shares on behalf of the Manager in collective investment schemes or limited partnership agreements, deeds of adherence or deeds of assignment in connection with the purchase of limited partnership interests on behalf of the Manager and any or all subsequent corporate documentation including sale documents ("**investor documentation**"). Mainspring shall not be responsible for any liability arising out of any such investment in the relevant collective investment scheme or limited partnership, nor any liability for

any representation or warranty given by Mainspring or its Nominee on behalf of the Manager to such collective investment scheme or limited partnership pursuant to the provisions of the investor documentation.

9.6 Mainspring will send the Manager, within the timescale set out in the SLA, details of all communications received from investee companies and from Investors in accordance with Clause 38.

## **10 ADVANCED CREDIT**

10.1 The Manager acknowledges and agrees that in some cases Mainspring will be effecting delivery or payment of Securities and Cash against an expectation of receipt.

10.2 Mainspring shall be authorised, but not obligated, to automatically credit or debit the Custody Account provisionally on the contractual settlement date with Cash or Securities in connection with any sale, exchange or purchase of Securities. Otherwise, such Cash or Securities shall be credited to the Custody Account on the day such Cash or Securities are actually received by Mainspring and reconciled to the Custody Account. In cases where Mainspring credits or debits the Custody Account with Cash or Securities prior to actual receipt and reconciliation, Mainspring may reverse such credit or debit as of the contractual settlement date if and to the extent that any Securities delivered by Mainspring are returned by the recipient, or if the related transaction fails to settle (or fails, due to market change or other reasons, to settle on terms which provide Mainspring full reimbursement of any provisional credit granted) within a period of time judged reasonable by Mainspring under the circumstances.

10.3 Mainspring is authorised, but shall not be obligated, to credit the Custody Account provisionally on the payable date with interest, dividends, distributions, redemptions or other amounts due. Otherwise, such amounts will be credited to the Custody Account on the date such amounts are actually received by Mainspring and reconciled to the Custody Account. In cases where Mainspring has credited the Custody Account with such amount prior to actual collection and reconciliation, the Manager acknowledges that Mainspring shall be entitled to recover from the Manager any such credit on demand and further agrees that Mainspring may reverse such credit as of the payable date if and to the extent that it does not receive such amounts in the ordinary course of business.

## **11 TAX STATUS/WITHHOLDING TAXES**

11.1 The Manager authorises Mainspring to pay or withhold any Taxes payable on assets in the Custody Account.

11.2 The Manager will provide Mainspring, from time to time and in a timely manner, with information and proof (copies or originals) as Mainspring reasonably requests (including without limitation for the purpose of complying with the Foreign Account Tax Compliance Act (“**FATCA**”) and the Common Standard on Reporting and Due Diligence for Financial Account Information (“**CRS**”)), as to the Investor’s and/or the underlying beneficial owner’s tax status or residence and will notify Mainspring promptly of any change in such status or residence. Information and proof may include, as appropriate, executing certificates or affidavits, making representations and warranties, or providing other information or documents in respect of Securities, as Mainspring deems necessary or proper to fulfil obligations under applicable law, and Mainspring is authorised to use such information in order to provide the Services.

11.3 Mainspring will be entitled to rely entirely on the information provided by the Manager, and shall have no obligation to make any independent investigation of them. The Manager will provide Mainspring with written confirmation from the Investor that the information provided, and any subsequent updates, are true and correct.

11.4 Where the Manager is unable to provide the information to Mainspring in a timely manner, the Manager agrees to Mainspring sourcing the data on behalf of the Manager.

11.5 Unless otherwise agreed in this Agreement, the Manager shall be responsible for all tax filings, tax returns and/or reports which may be required to be delivered by the Manager to any relevant authority, whether governmental or otherwise, for the payment of all unpaid taxes, levies or duties

arising out of or in connection with the assets of the Custody Account, including, but not limited to, trades undertaken or settled pursuant to this Agreement.

- 11.6 Other than as expressly provided in this Agreement, Mainspring shall have no obligation or responsibility with regard to the Portfolio's tax position, status or affairs.

## **12 OVERSEAS-REGISTERED SHARES**

- 12.1 This Agreement applies to Services to be provided in respect of Sterling, Euro, and US Dollar denominated investments. Mainspring reserves the right to charge the Manager additional fees for investments denominated in any currency other than Sterling, Euro and/or US Dollar.

## **13 USE OF THIRD PARTIES**

- 13.1 Mainspring is hereby authorised to appoint Delegates to perform any of the Services under this Agreement. Mainspring will maintain an appropriate level of supervision over Delegates and make appropriate enquiries from time to time to confirm that the obligations of the Delegates continue to be competently discharged. Mainspring shall act in accordance with the Standard of Care in the selection, use, monitoring and continued appointment of any Delegate in relation to this Agreement, unless Instructed by the Manager to select and use a specific Delegate in which case Mainspring shall have no responsibility for the selection, use, monitoring and continued appointment of such Delegate.

- 13.2 Mainspring and its Delegates and Affiliates may use Third Parties to perform any services that may be necessary or desirable to assist or enable Mainspring and/or Delegate to perform the Services under this Agreement. Mainspring and its Delegates and Affiliates shall act in accordance with the Standard of Care in the selection, use and appointment of any Third Parties (unless Instructed by the Manager to select and use a specific Third Party in which case Mainspring shall have no responsibility for the selection, use and continued appointment of such Third Party).

- 13.3 Securities deposited with Clearance Systems hereunder will be subject to the laws, rules, statements of principle and practices of such Clearance Systems. Mainspring may deposit or procure the deposit of Securities with any Clearance System as required by law, regulation or best market practice.

- 13.4 Mainspring will not deposit Cash and Securities held on behalf of the Manager with a Sub-Custodian in a third country, for the account of another person, which does not regulate the holding and safekeeping of Cash and Securities except as permitted under the FCA Rules. Any such appointment of a Sub-Custodian will require such Sub-Custodian to comply with such FCA Rules in the event it delegates any of its functions concerning the holding and safekeeping of the Cash and Securities to another third party.

- 13.5 Mainspring will take necessary steps to ensure that the Manager's Cash and Securities deposited with a Sub-Custodian will be identifiable separately from the applicable assets of Mainspring and the Sub-Custodian.

- 13.6 The Manager confirms that if permitted by applicable law, and required by the investing strategy of the Manager which requires Mainspring to appoint a Sub-Custodian, the Manager's Cash and Securities may be held in an omnibus account by a Sub-Custodian.

- 13.7 The Manager acknowledges and accepts that where a Sub-Custodian is required and has been appointed, it may not be possible under applicable law for the Manager's Cash and Securities to be separately identifiable when held with a Sub-Custodian.

- 13.8 In the event that the Manager's investing strategy results in the requirement for Mainspring to appoint and use the services of a Sub-Custodian, the Manager acknowledges and accepts that Mainspring may hold Cash and Securities belonging to the Manager in accounts that may be subject to laws of a jurisdiction other than that of an EU member state. The rights the Manager has relating to those Cash and Securities may differ accordingly.

## **14 CORPORATE ACTIONS AND PROXIES**

- 14.1 Mainspring will not be responsible for taking up Rights other than as Instructed by the Manager and in accordance with the SLA.
- 14.2 Save where restrictions may be imposed by applicable law, local market regulations or the issuer of the relevant Securities, Mainspring will make all reasonable efforts to:
- a) notify the Manager of any Rights which are exercisable by the legal owner of Securities, as soon as reasonably practicable after Mainspring has received notice of the existence of such Rights from the issuer of such Securities, and specify a deadline by which Instructions must be received by Mainspring from the Manager in relation to the exercise of the relevant Rights; and
  - b) following receipt by Mainspring of Instructions from the Manager prior to the relevant deadline, procure the exercise of the relevant Rights in accordance with such Instructions. In the absence of specific Instructions from the Manager, Mainspring will take no action in relation to the relevant Rights.
- 14.3 If in relation to any Rights in the reasonable opinion of Mainspring:
- a) there is insufficient time to enable Mainspring prior to any relevant deadline to notify the Manager of the existence of such Rights, or to receive Instructions from the Manager, or to procure the exercise of the Rights in accordance with the Instructions received; or
  - b) there is insufficient Cash in the Cash Account to fund the exercise of Rights in accordance with the Instructions received,

Mainspring is entitled to take no further action in relation to such Rights and shall have no liability for such Rights not being exercised provided that Mainspring notifies the Manager in any event as soon as reasonably practicable.

- 14.4 The Manager acknowledges that in certain circumstances, it may be prohibited or restricted from exercising the Manager's Rights in respect of the Securities. Such circumstances include the following without limitation:
- a) where the Securities are out on loan;
  - b) where the Securities are out for registration; or
  - c) in circumstances where restrictions are imposed by law, local market regulations, or the issuer.
- 14.5 In the event the Manager instructs Mainspring to sell any Rights attaching to Securities, the Manager acknowledges and agrees that Mainspring's responsibility shall be limited to transmitting the Manager's order to the relevant broker for execution.
- 14.6 The Manager accepts that Mainspring shall not be required to make payment in respect of any Rights or otherwise except out of assets held by Mainspring in the Custody Account.
- 14.7 If any fractional entitlement arises in relation to any investment held in the Custody Account, Mainspring shall sell such fraction unless otherwise directed by an Authorised Person. Where any distributions or other entitlements or benefits arise in respect of Securities which are held by Mainspring for the Manager in an omnibus account together with securities held by Mainspring for its other customers, such distributions, entitlements or benefits shall be allocated among the Manager and the other customers pro rata in proportion to the amount of such pooled securities which are held for each such customer and the Manager.
- 14.8 The Manager, by itself or its duly appointed agent, hereby agrees to and shall execute such representations, disclaimers or warranties as Mainspring, any Delegate, or issuer may reasonably require, or which may otherwise be required pursuant to any law, regulation or local market requirement in connection with any matter relating to any Right or voting rights in respect of the Securities of the Custody Account.

## **15 INSTRUCTIONS**

- 15.1 If Investors contact Mainspring directly in relation to the Services that Mainspring is providing to the

Manager with instructions or requests for information on their investments, Mainspring shall forward those instructions or requests for information to the Manager and the Manager acknowledges and agrees that Mainspring must not act upon the Investor's instructions. The Manager will indemnify Mainspring and keep Mainspring indemnified against any Losses incurred by Mainspring as a result of any dispute Mainspring may have as a result of not acting upon the Investor's instructions in the situation contemplated by this Clause 15.1.

- 15.2 The Manager's Authorised Persons may, from time to time, give Instructions to Mainspring directing Mainspring to take, or refrain from taking, particular actions under this Agreement. When Instructing Mainspring the Manager shall adhere to the FCA Rules and laws applicable to Mainspring to enable Mainspring to fulfil the obligations under the FCA Rules and applicable laws when performing such Instruction.
- 15.3 The Manager may from time to time provide the Custodian with instructions over the telephone or where such instructions are given otherwise than by telephone, they must be made in writing (to include fax or email) or a documentation of the Manager's instructions issued at meetings. Where the Manager provides instructions at a face-to-face meeting, the conversations may be recorded by the Custodian by using written minutes or notes.
- 15.4 Any direction given to Mainspring seeking to amend or vary the terms of this Agreement shall not be deemed to be an Instruction and shall be subject to the provisions of Clause 44.
- 15.5 The Manager may from time to time notify Mainspring in writing of any changes to the Authorised Persons and shall provide any evidence Mainspring may require of such authority. Until Mainspring receives written notice to the contrary, it is entitled to assume that any of the Authorised Persons have full and unrestricted power to give Instructions on the Manager's behalf. The Manager covenants promptly to notify Mainspring of any alteration to the identity of Authorised Persons.
- 15.6 Mainspring shall be entitled to rely and act upon any Instruction, or the relevant part thereof, from an Authorised Person, or from such other person where Mainspring reasonably believes the Instruction to be from an Authorised Person, whether or not the authority of such person is then effective and without further enquiry of Mainspring in relation to the genuineness, authority or identity of the Authorised Person.
- 15.7 Mainspring shall acknowledge Instructions received from Authorised Persons by acting on them unless the Manager is promptly advised that Mainspring believes:
  - a) such Instruction to be ambiguous;
  - b) such Instruction was not given by an Authorised Person; or
  - c) such action may not be practicable, or might result in a breach of the FCA Rules and/or any applicable law.
- 15.8 The timing and manner of the required notifications in this Clause 15 shall be governed by the terms of the SLA. Other than as required in the SLA or as otherwise agreed in writing between the Parties, Mainspring shall not be obliged to give or make any other acknowledgement of Instructions.

## **16 CONFLICTS OF INTEREST AND EXCLUSIVITY**

- 16.1 None of the Services of Mainspring under this Agreement are to be provided on an exclusive basis to the Manager. Mainspring and any Affiliate shall be free to provide similar services to (or engage in other activities with) others on such terms as Mainspring (or any Affiliate) may arrange and to retain for its own use and benefit, fees or other monies payable for its doing so, so long as the Services hereunder are not impaired thereby. Mainspring shall not be deemed to be affected with notice of, or to be under any duty to disclose to the Manager, any fact or thing which may come into its notice or the notice of any employee or agent of it in the course of Mainspring rendering similar services to others or in the course of carrying out its duties under this Agreement.
- 16.2 The Conflicts of Interest Policy sets out the types of actual or potential conflicts of interest that affect Mainspring's business and provides details of how these are managed and deals with any fees,

commission or any monetary benefits paid or provided by any third party or a person acting on behalf of a third party. A copy of Mainspring's Conflicts of Interest Policy is available from Mainspring at the following link <https://mainspringfs.com/policies/conflictsofinterest>. Mainspring shall disclose to the Manager any conflicts that Mainspring is not able to manage effectively as soon as reasonably practicable.

- 16.3 Where Mainspring pays, provides, accepts or receives a fee, commission or non-monetary benefit in accordance with the FCA Rules, Mainspring will inform the Manager, prior to the provision of the relevant service:
- a) of the existence and nature of the payment or benefit; and
  - b) the amount of the payment or benefit or, where the amount cannot be ascertained, the method for calculating that amount.
- 16.4 Mainspring will provide the Manager with periodic reporting statements to inform the Manager regarding any fees, commission or any monetary benefits transferred to the Manager.
- 16.5 Mainspring may share any fees and non-monetary benefits with any Affiliate or other third parties (including a person acting on their behalf) or receive fees and non-monetary benefits from them in respect of the Services provided pursuant to this Agreement. Details of the nature and amount of any such fees or non-monetary benefits (excluding exempt fees, which for these purposes mean custody costs, settlement and exchange fees, regulatory levies or legal fees) are available to the Manager on written request.

## **17 NO IMPLIED DUTIES**

- 17.1 The relationship under this Agreement is between Mainspring and the Manager. Under no circumstances will there be a contractual relationship between Mainspring and the Investors, notwithstanding that the Services are provided for the Portfolios of the Manager.
- 17.2 The relationship between the Manager and Mainspring is as described in this Agreement. Nothing in this Agreement, none of the Services to be provided hereunder, nor any other matter shall:
- a) oblige Mainspring or any Affiliate to accept responsibilities more extensive than those set out in this Agreement;
  - b) oblige Mainspring to make any investment review, to consider the propriety or holding or selling of any Securities in the Securities Account or to proffer any advice; or
  - c) give rise to any fiduciary or equitable duties which would prevent or hinder Mainspring or any Affiliate from either:
    - (i) performing the Services pursuant to this Agreement or any other client agreement of Mainspring or any Affiliate; or
    - (ii) effecting the settlement of transactions with or for the Manager or for any other client of Mainspring or any Affiliate.
- 17.3 Mainspring is not acting under this Agreement as an investment manager, nor as an investment, legal or tax adviser to the Manager, and Mainspring's duty is solely to provide the Services in accordance with the terms of this Agreement.

## **18 RECORDS AND ACCESS**

- 18.1 Mainspring will keep or cause to be kept books, records and statements of the Custody Account in accordance with applicable requirements of any regulatory or fiscal body, Regulatory Rules, and applicable law on behalf of the Portfolios, as may be reasonably necessary to give a complete record of all the Cash, Securities and documents held and transactions carried out by Mainspring on behalf of the Portfolios under this Agreement.
- 18.2 In producing the statements in Clause 18.1 Mainspring will perform a reconciliation check of the Securities and Cash in each Custody Account and investigate any discrepancy.

18.3 On written agreement between the Parties, Mainspring will allow the Manager and its independent accountants, auditors or regulators reasonable access to the books, records and statements of Mainspring relating to the Services at all reasonable times and as is required by the Manager in connection with an examination of the books, records and statements pertaining to the affairs of the Manager, and will seek to ensure that it obtains such access from each Affiliate and Delegate.

## **19 CO-OPERATION AND PROVISION OF INFORMATION**

19.1 Mainspring shall at all times (and at no extra cost to the Manager) provide such reasonable information to each Authorised Person as the Manager may reasonably request from time to time (subject to, where the recipient is not a member of the Manager Group, the recipient entering into a confidentiality undertaking in favour of Mainspring in equivalent terms to the confidentiality obligations in Clause 29, if any information being passed is confidential). The Manager may require Mainspring to deal directly with the Authorised Person for the provision of any information under this Clause 19.1 and Mainspring shall comply with such request.

19.2 During the term of this Agreement, the Manager, or its agents, shall:

- a) provide Mainspring with all such identification information, other information, documentation and records as Mainspring may reasonably require or request to perform its duties under the Agreement and comply with applicable law, and, where such information, documentation and records are not in its possession or custody or under its control, shall use reasonable endeavours to procure the same; and
- b) promptly notify Mainspring of: (i) such other information concerning the business and financial condition of the Manager; (ii) the receipt by the Manager of any communication from any regulatory authority; and (iii) the commencement of any lawsuit or proceeding to which the Manager and/or its agents are a party or any other event which significantly affects their business, in each case which is relevant to this Agreement.

19.3 Mainspring shall not be obliged to perform any of its obligations under the Agreement until all such documentation has been provided to Mainspring to its reasonable satisfaction.

## **20 STATEMENTS AND VALUATIONS**

20.1 The Manager warrants that its contractual arrangements with Investors stipulate that the Manager will be responsible for providing valuations for non-readily realisable securities and Readily Realisable Investments held on behalf of Investors. With respect to non-readily realisable securities, Mainspring will be able to rely on any such valuation and will have no responsibility to review it.

20.2 The Manager will provide Mainspring within the timescale set out in the SLA:

- a) a list of valuations that Mainspring requires to produce Portfolio valuation statements; and
- b) information notified to the Manager that Mainspring requires to compile individual Portfolio investment reports.

20.3 In the event that the Manager judges that the valuation of particular Securities should be zero, and that there is no reasonable expectation that the Manager is going to receive any financial return from such Securities, the Manager may, after having given notice to the Investor and Mainspring and in the event that the relevant Securities are not to be sold or, where applicable, liquidated, dissolved or wound-up with any relevant proceeds being credited to the Custody Account, instruct Mainspring in writing to remove the Securities from the Securities Account, register the Securities in the Investor's name and deliver any documents of title to the Manager. Such Securities will cease to form part of the relevant Portfolio.

## **21 REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS**

21.1 Mainspring hereby represents, warrants and agrees from the Effective Date and on an on-going basis as and when any Services are used or provided that:

- a) it is authorised and regulated by the FCA to provide the Services and shall remain so authorised and regulated at all times during the term of this Agreement;

- b) it is duly organised, validly existing under the laws of its jurisdiction of incorporation and in good standing in every jurisdiction where it is required to be;
- c) it has all necessary power, authority and authorisations to execute, deliver and perform this Agreement in accordance with its terms and to provide the Services contemplated by this Agreement;
- d) this Agreement is duly authorised and signed and is legal, valid and constitutes a binding obligation enforceable in accordance with its terms;
- e) to the best of its knowledge, information and belief, having regard to any requests made to it by the Manager and to its duties and responsibilities hereunder, full disclosure has been made to the Manager prior to the Effective Date of all facts in relation to it and its business affairs as are materially relevant to the provision of services under this Agreement and ought properly to be made known to any person proposing to enter into this Agreement; and
- f) its execution, delivery and performance of this Agreement will not violate or breach any Regulatory Rules, or other applicable law, regulation, contract, constitutive powers or other requirement.

21.2 The Manager hereby represents, warrants and agrees from the Effective Date and on an on-going basis as and when any Services are used or provided that:

- a) it is authorised and regulated by the FCA to provide the services it has been appointed to provide by the Investor and shall remain so authorised and regulated at all times during the term of this Agreement;
- b) it is duly organised, validly existing under the laws of its jurisdiction of incorporation and in good standing in every jurisdiction where it is required so to be and is the validly appointed representative for each Investor for the subject of this Agreement;
- c) it has all necessary power, authority and authorisations to execute, deliver and perform this Agreement in accordance with its terms;
- d) this Agreement is duly authorised and signed and is legal, valid and constitutes a binding obligation enforceable in accordance with its terms and in its capacity as agent for each Investor;
- e) its execution, delivery and performance of this Agreement will not violate or breach any Regulatory Rules, or other applicable law, regulation, contract, constitutive powers or other requirement;
- f) any consent, authorisation or instruction required in connection with its execution and performance of this Agreement has been provided by any relevant third party;
- g) it has not relied on any oral or written representation made by Mainspring (other than the representations contained in this Agreement) or any person on its behalf, and acknowledges that this Agreement sets out to the fullest extent its duties and obligations;
- h) to the best of its knowledge, information and belief, having regard to any requests made to it by Mainspring and to its duties and responsibilities hereunder, full disclosure has been made to Mainspring prior to the Effective Date of all facts in relation to it and its business affairs as are material and ought properly to be made known to any person proposing to enter into this Agreement;
- i) it is the sole beneficial owner of all assets in the Portfolio (or, where it is acting as agent, it is acting on behalf of the beneficial owner);
- j) it has authority to deposit the Portfolio in the Custody Account, that the Securities have not been lent to a third party, and there is no mortgage, lien, charge, claim, pledge, right of set-off, encumbrance or any security interest in favour of a third party that adversely affects any delivery of Securities or payment of Cash made in accordance with this Agreement;

- k) it will not, nor will it allow any Investor, transfer or charge, or purport to transfer or charge, its interests in any of the assets in the Custody Accounts to a third party, other than as a sale of assets; and
- l) in entering into, and acting in accordance with this Agreement, in no circumstances shall any Investors be clients or indirect clients of Mainspring.

21.3 The Manager covenants to ratify, or as the case may be ensure the Investors ratify, all acts properly carried out by Mainspring, its Affiliates and Delegates in the proper performance of, and in accordance with, the terms of this Agreement.

21.4 Save as expressly provided in this Agreement, no other representation or warranty, expressed or implied, is made by either Party. Each Party shall promptly notify the other Party if any representation ceases to be true, accurate or complete in any material respect.

## **22 ANTI-MONEY LAUNDERING**

22.1 Anti-money laundering legislation, rules and guidance require Mainspring to obtain evidence of identity before undertaking regulated activities for a client. Mainspring is also required to do this by legislation designed to combat serious crime.

22.2 The Manager warrants that it has carried out Customer Due Diligence in respect of each Investor and consents to Mainspring relying on it to identify each Investor.

22.3 In cases when the Manager relies on a third party to perform Customer Due Diligence, the Manager shall ensure that the third party consents to Mainspring relying on their performance of such Customer Due Diligence.

22.4 Without prejudice to the preceding, the Manager shall, on request from Mainspring, provide certified copies of the information relied on to identify each Investor, copies of the Manager's anti-money laundering and 'know your customer' procedures and any other information Mainspring requests in order to meet its internal policies and/or applicable anti-money laundering legislation. Mainspring reserves the right to request additional information from the Investor and to cease to perform the Services until satisfactory additional information is provided. Mainspring is likely to request such information if the Investor requests Mainspring to receive or remit Cash or Securities from or to persons who are not party to this Agreement or in any other circumstances when Mainspring considers that such additional information is required.

22.5 Mainspring may agree with the Manager to carry out administrative support including but not limited to reviewing and running any additional checks of the Customer Due Diligence documentation. For the avoidance of doubt, Mainspring may provide such administrative support solely for the purpose of assisting the Manager in carrying out the Customer Due Diligence in respect of each Investor. Such due diligence is undertaken on the understanding that this is part of the provision of the Services and is carried out only in relation to the Services provided to each Investor. Notwithstanding the administrative assistance provided by Mainspring, the Manager will always remain ultimately responsible for sign off on the Customer Due Diligence and warrants that in its reasonable opinion, the due diligence measures have been carried out in accordance with the Money Laundering Regulations.

## **23 FEES, EXPENSES AND COMMISSIONS**

23.1 In consideration of the Services to be performed by Mainspring hereunder, Mainspring shall be entitled to receive such fees from the Manager as may be agreed in writing between Mainspring and the Manager from time to time and initially set out in Schedule 4. No other fees shall be due to Mainspring other than as set out in Schedule 4.

23.2 The fees will become due on the earlier of either (a) receipt of the first executed AML Confirmation, or (b) from receipt of the first Portfolio into the Custody Account. The fee shall accrue on a pro rata basis from receipt of each Portfolio into the Custody Account, and shall cease to be payable on the earlier of the removal of an Investor's Portfolio from the Custody Account in accordance with Clause 28.2 or the date of termination of this Agreement.

- 23.3 The fee payable under Clause 23.1 shall be exclusive of any value added tax payable, which shall be borne by the Manager.
- 23.4 Mainspring may debit from the Custody Account any amounts due to Mainspring under this Agreement, or any other agreement between Mainspring (in whatever capacity) and the Manager, that are not paid by the Manager in a timely manner in accordance with this Agreement.
- 23.5 The Manager shall be responsible for any sums which may become payable on any of the assets of the Portfolio or any taxes or other imposts or similar liabilities levied or arising on or in respect of any of the assets of the Portfolio.
- 23.6 The Manager shall pay or reimburse Mainspring in respect of all reasonable out-of-pocket expenses incurred by it, including (without limitation) all charges for postage, telephone, faxing, telegraphic transfers, obtaining indemnities for lost share certificates and changes of registration or transfer incurred by Mainspring in the performance of its duties hereunder. The Manager shall also reimburse Mainspring for the reasonable fees and customary agents' charges paid by Mainspring to any Sub-Custodian which shall be charged at normal commercial rates together with value added tax, if any, thereon.
- 23.7 All expenses reimbursed by Mainspring to Delegates and Third Parties which would be payable to Mainspring in the absence of such delegation or appointment shall be paid by the Manager together with the fees of such Delegates and Third Parties.
- 23.8 The Manager will, as of the subscription date for each issue of new Securities, and as of the date of sale of Securities, send Mainspring a statement of the brokerage commission, proceeds of exercising an option or other fee due to the Manager from each Portfolio under the Manager's separate agreements with each Investor. The statement for sales will provide a breakdown of the commission (or other payment) due to the Manager from each Portfolio and when it shall be paid. Subject to there being sufficient Cash in the relevant Cash Account, upon Instruction, Mainspring will transfer to the Manager sums equivalent to the monetary commissions (or other payments) due from a Portfolio from Cash held in respect of that Portfolio within the time frame set out in the SLA.
- 23.9 The Manager will be responsible for the calculation of any fees, commissions or other payments (including without limitation carried interest) payable by each Portfolio to the Manager under any separate agreement between the Manager and the Investor, and the Manager may instruct Mainspring to make payments to the Manager from any Cash held in the relevant Custody Account by Mainspring. The Manager, on behalf of the Investor, authorises Mainspring to act on any such Instruction and Mainspring shall rely absolutely on any such Instruction by the Manager and will have no obligation to confirm the Manager's calculations.
- 23.10 The Manager will indemnify Mainspring and keep Mainspring indemnified against any Losses incurred by Mainspring as a result of any dispute Mainspring may have with Investors about any transfer Mainspring makes to the Manager of such commissions (or other payment) made on the Manager's Instructions.
- 23.11 For the avoidance of doubt, if the Manager requests that Mainspring prepare the calculations referred to in Clause 23.9, or any other workings or calculations for any purpose that the Manager will use to make an Instruction to Mainspring, it remains the Manager's responsibility to ensure for its own purposes that such calculations or workings are correct.
- 23.12 Mainspring will provide the Manager with reporting on a periodic basis (at least annually) and otherwise upon written request by the Manager, with the necessary information, relating to the costs and any related charges in accordance with the FCA Rules.

## **24 LIMITATION OF LIABILITY**

- 24.1 Mainspring shall be liable to the Manager for any Losses incurred by the Manager only to the extent that such Losses arise under the law of contract and are the direct result of any act or omission taken or omitted by Mainspring, its Affiliates or Delegates during the term of, and under, this Agreement which constitutes negligence, wilful default or fraud of Mainspring, its Affiliates or Delegates or their

directors, officers or employees in providing any of the Services under this Agreement.

24.2 Mainspring shall not otherwise be liable for any other Losses suffered by the Manager including without limitation Losses arising from:

- a) acts, omissions, negligence, wilful default, fraud of any other person;
- b) the insolvency of any person;
- c) Mainspring carrying out or relying on any Instructions and/or on any information provided or made available to Mainspring by the Manager, any agent of the Manager or any person appointed by Mainspring, and/or Delegates, under Clause 13;
- d) the Manager failing to forward relevant information to Investors, or failing to do so in a timely manner;
- e) delays or inability to effect re-registration of Securities;
- f) any delays due to market conditions or changes in market conditions;
- g) any delayed receipt, non-receipt, loss or corruption of any information contained in email or for any breach of confidentiality resulting from email communication;
- h) any representation made by the Manager being untrue and/or breach of warranty by the Manager;
- i) a situation in which the Manager could have mitigated to reduce or avoid such Losses; or
- j) Mainspring's compliance with applicable laws, Regulatory Rules and the rules, operating procedures and practices of any relevant stock exchange, Clearance System or market, in any country in which Securities and Cash are held.

24.3 Where in the SLA Mainspring has an obligation to achieve a particular outcome and the achievement of that outcome relies on a Manager Input, then provided Mainspring can reasonably have been expected to have been aware of the requirement for the Manager Input in complying with its obligations under this Agreement, including the Standard of Care, then if Mainspring does not receive that Manager Input from the Manager or relevant Manager Third Party in a timely or complete manner so as to allow Mainspring to achieve the outcome required in the SLA in accordance with the applicable service levels in the SLA, the following shall apply:

- a) Mainspring shall follow up with the Manager or the Manager Third Party and request the required Manager Input (either in accordance with the relevant process set out in the SLA or this Agreement or, where no process has been set out in the SLA, in accordance with the Standard of Care); and
- b) if following a) above Mainspring still has not received the required Manager Input so as to allow Mainspring to achieve the outcome required in the SLA in accordance with the applicable SLA, then Mainspring shall, to that extent, be excused from its failure to achieve the required outcome in the SLA (including its obligation to meet the applicable SLAs).

24.4 Mainspring shall not be liable in any circumstances for any Losses that constitute indirect, special or consequential loss, punitive damages or damage, or loss of profits, information, opportunity, goodwill or reputation in connection with or arising out of this Agreement, even if Mainspring has been advised of the possibility of such Losses. Mainspring shall take reasonable efforts to notify the Manager promptly if it is advised by a third party, or becomes aware, of such Losses, however such notification, or failure to notify, will not constitute breach of this Agreement or acceptance of liability for such Losses by Mainspring.

24.5 Mainspring shall not be responsible for any Losses incurred after the termination of this Agreement unless and to the extent that the negligence, wilful default or fraud causing such Losses can be evidenced to have occurred prior to the termination of this Agreement.

24.6 Nothing in this Agreement shall exclude or restrict any duty or liability that Mainspring may have to the Manager in respect of the Services under the Regulatory Rules.

24.7 Subject to Clauses 24.2, 24.4 and 24.5, Mainspring's total aggregate liability arising from or in connection with this Agreement and in relation to anything which Mainspring may have done or not done in connection with this Agreement (and whether the liability arises because of wilful default, negligence or for any other reason) shall be limited to: (i) a sum which is 100% of the total aggregate amounts paid to Mainspring for the provision of the Services in the 12 month period immediately preceding the month in which the relevant claim arises; or (ii) if less than 12 months have expired since the date of this Agreement, 100% of the total aggregate amounts paid to Mainspring since the Effective Date of this Agreement in relation to the Services provided for. Nothing in this Agreement shall reduce or affect the liability of the Manager to mitigate its loss.

## **25 INDEMNITY**

25.1 The Manager shall fully indemnify the Indemnified Persons on an ongoing basis on demand, howsoever caused, against all Losses paid, suffered, incurred or made against the Indemnified Persons, directly or indirectly arising as a result of:

- a) the performance by the Indemnified Persons of their duties under this Agreement;
- b) carrying out or relying on any Instructions and any information provided or made available to the Indemnified Persons by the Manager, Manager's Group, Manager Third Party, its auditor or any other agents of the Manager;
- c) any party claiming to be entitled to assets which form part of the Portfolio;
- d) any representation made by the Manager being untrue and/or for breach of warranty by the Manager;
- e) the acts and omissions, or any claims made by any other third party, except to the extent that such Losses arise under Clause 24.1.

25.2 Any indemnity given to the Indemnified Persons under this Agreement is in addition to, and without prejudice to, any indemnity allowed to the Indemnified Persons under applicable law.

## **26 LIEN AND SET OFF**

26.1 To the extent permitted by applicable laws and the Regulatory Rules Mainspring shall have, and the Manager hereby grants to Mainspring a specific lien on those Securities which, in accordance with the Manager's specific Instructions, have been purchased for the account of the Manager (whether on its own behalf or as agent for its Investors) and in respect of which Mainspring has agreed to extend or grant financial accommodation or otherwise advance moneys to the Manager for the purpose of such purchase, under satisfaction or discharge of such accommodation or discharge.

26.2 To the extent permitted by applicable laws and the Regulatory Rules, Mainspring may, without prior notice to the Manager, set off any payment obligation owed to Mainspring, Delegates, Clearance System or any other person by the Manager in connection with all liabilities arising under this Agreement against:

- a) any payment obligation owed by Mainspring to the Manager under this Agreement regardless of the place of payment or currency of either obligation (and for such purpose, may make any currency conversion as may be necessary at the rate determined by reference to the Financial Times); or
- b) any property which Mainspring or any Delegate, Clearance System or other person may hold directly or indirectly for the account of the Manager, in any currency including time deposits and all Securities held hereunder, or to utilise available Cash and dispose of the Manager's property to the extent necessary (which shall include the right to sell or assign Securities or otherwise assign its security interest to third parties) to obtain repayment or reimbursement. Any such property of the Manager may be transferred among Mainspring, a Delegate, Clearance System or other person in order to effect such rights.

26.3 The rights provided for in this Clause 26 shall be in addition and without prejudice to any rights existing under applicable law, at common law, in equity, by statute or custom. Mainspring may in its

sole discretion extend the rights conferred by this Clause 26.3 to any Delegate, Clearance System or other person appointed by Mainspring pursuant to Clause 13 hereof.

26.4 The Manager authorises Mainspring to grant security interests, liens and rights of set-off over the Manager's Cash and Securities to Sub-Custodians to enable Sub-Custodians to dispose of the Manager's Cash and Securities in order to recover debts in accordance with the FCA Rules.

## **27 LITIGATION ASSISTANCE**

27.1 Mainspring shall have no authority or responsibility to take any action with regard to any Litigation, including, without limitation, to file proofs of claim or other documents, or to investigate, initiate or monitor any Litigation. The Manager acknowledges and agrees that it, and any legal adviser of the Manager, shall remain solely responsible for the conduct of such Litigation.

## **28 TERMINATION**

28.1 This Agreement will commence on the Effective Date and remain in full force and effect until terminated by either Party in accordance with this Clause 28.

28.2 At any time, the Manager may give notice in accordance with Clause 38 to Mainspring to commence, or cease, providing the Services to a Custody Account for a particular Investor without impacting the term of this Agreement. Mainspring may in its sole discretion accept or decline providing services to any Investor. For each investment tranche, the Manager shall list the relevant Investors and shall issue an AML Confirmation to Mainspring with respect to those Investors, in accordance with Clause 6.3. Upon receipt of each AML Confirmation, the Services in respect of such Portfolio may commence.

28.3 If at any time a Termination Event with respect to a Party has occurred, the other Party may, by written notice specifying the relevant Termination Event, designate a termination date not earlier than the day such notice is effective.

28.4 Mainspring and the Manager may terminate this Agreement after the first year of its duration by giving not less than 6 months' prior written notice to the other Party.

28.5 Upon termination of this Agreement Mainspring shall:

- a) be entitled to receive all fees and expenses accrued up to the date of such termination and any additional expenses reasonably and necessarily incurred by Mainspring in terminating the Agreement; and
- b) deliver the Securities, Cash, all documents of title to or evidencing ownership of the Securities and Cash and all books of account, records, registers, correspondence, documents and other assets relating to this Agreement and belonging to the Manager in the possession or under the control of Mainspring, in hard copy or electronic format, according to the Manager's Instruction. If by the termination date the Manager has not given such delivery Instructions, Mainspring will continue to safekeep such Securities and/or Cash until the Manager provides Instructions to effect a free delivery of such and the Manager shall continue to pay Mainspring all fees and expenses associated with the provision of the Services. However, Mainspring will provide no such other services as regard to any such Securities and Cash except to collect and hold any cash distributions. Notwithstanding termination of this Agreement or any Instruction, Mainspring may retain sufficient Securities or Cash to close out or complete any transaction that Mainspring will be required to settle on the Manager's behalf.

28.6 Termination of this Agreement shall not affect accrued rights, existing commitments or any contractual provision intended to survive termination and shall be without prejudice to the completion of any settlement transactions already initiated, which shall be completed expeditiously by Mainspring.

## **29 CONFIDENTIALITY**

29.1 Services provided to the Manager under this Agreement are intended for use by the Manager only and all information and advice provided to the Manager in performing the Services, verbally, in hard

copy or electronic format, is Confidential Information, commercially sensitive and subject to the obligations in this Clause 29, and may not, in whole or in part, directly or indirectly, be used by the Manager for any other purpose other than in accordance with this Agreement, nor be disseminated to, or relied upon by, any other person.

29.2 In providing its Services under this Agreement, neither Mainspring nor any Affiliate shall be obliged to disclose or to take into consideration (or to require any third party to disclose or take into consideration) any information:

- a) the disclosure or use of which might breach any prohibition, duty or confidence to any other person or arising under any Regulatory Rules;
- b) which comes to the notice of an employee, officer or agent of Mainspring or of an Affiliate, but properly does not come to the actual notice of an individual providing Services;
- c) relating to the nature or extent of any interest Mainspring or any Affiliate has in any investments; or
- d) to the extent that it is subject to legal privilege.

29.3 Either Party may disclose Confidential Information:

- a) to such of the members of Affiliates (where the recipient is Mainspring) and such members of the Manager Group (where the recipient is the Manager) and their representatives who need access to that Confidential Information for the purpose of the recipient complying with its obligations under this Agreement, and will make each such person aware of the confidentiality obligations contained in this Agreement and will take reasonable steps to ensure that each such person does not transfer such Confidential Information on to a third party or enter into an agreement with such person requiring it to do so. The recipient shall take reasonable steps to procure that any person to whom the recipient disclosed Confidential Information pursuant to this Clause 29.3a) shall not do or omit to do anything which if done or omitted to be done by the recipient would constitute a breach of this Clause 29;
- b) to the extent necessary in order to be able to refer a dispute for resolution; and/or
- c) to the extent required by any court, applicable law, Regulatory Rules or the rules of any listing authority, stock exchange, Clearance System or any competent regulatory authority. Where reasonably practicable and not prohibited by applicable law, the recipient will give notice to the discloser in advance of such disclosure, will consult with the discloser as to the timing, content, purpose and means of disclosure and will seek to make such disclosure subject to obligations of confidence consistent, so far as possible, with the terms of this Clause 29.

29.4 Notwithstanding Clause 29.1 Mainspring may disclose Confidential Information to Recipients. Mainspring shall take reasonable steps to procure that such Recipients treat the Confidential Information as confidential and do not transfer such Confidential Information on to a third party unless required to do so in order to comply with applicable law.

29.5 Confidential Information shall remain confidential for a period of one year from the termination of this Agreement.

29.6 The Parties agree that damages may not be an adequate remedy for any breach of this Clause 29 and accordingly, each shall be entitled (but not limited) to seek injunctive or other equitable relief restraining the other from breaching this Clause.

### **30 DATA PROTECTION**

30.1 The Parties agree that for the purposes of this Agreement, Mainspring shall be the Controller and Processor of Personal Data.

30.2 The Manager hereby agrees to ensure to obtain the necessary authorisations and consents from its employees and Investors for (i) any of Mainspring, its Affiliates, any Third Party Processor or, in general, those who provide products or services to Mainspring and any advisers, to hold and process

data relating to the Manager's employees and Investors, including legal, personnel, administrative and management purposes, and in particular for the processing of any Special Categories of Personal Data relating to the Manager's employees and Investors; and (ii) any of Mainspring, its Affiliates, any Third Party Processor or, in general, those who provide products or services to Mainspring and any advisers, making their Personal Data available to any advisers, regulatory authorities, governmental or quasi-governmental organisations and potential purchasers of Mainspring, as may be required from time to time for the purposes of complying with the obligations of Mainspring under this Agreement and the Data Protection Laws; and (iii) in general, to allow Mainspring to store and process Personal Data in accordance with the Data Protection Laws and the terms and conditions of Mainspring's Data Protection Policy.

30.3 The Manager agrees to obtain the necessary consents where applicable from its employees and Investors that their Personal Data:

- a) may be transferred outside the EEA by Mainspring, its Affiliates and any Third Party Processor; and/or
- b) may be accessed and viewed outside the EEA by Mainspring, its Affiliates and any Third Party Processor for the purposes of operating and maintaining Mainspring's IT infrastructure and IT services,

provided that with respect to any Third Party Processor, Mainspring will have procured that such Third Party Processor will have entered into terms comparable to EU Model Terms.

30.4 For the avoidance of doubt, the Clauses above shall not restrict the ability of Data Subjects or the Manager to access their own Personal Data, as appropriate, either from within or outside the EEA (to the extent such access is sought directly by the Data Subject or the Manager and not by a third party or Mainspring on the Data Subject's behalf).

30.5 Both Parties agree to comply with the Data Protection Laws in relation to the supply, storage and use of Personal Data. The Parties will co-operate with each other and reasonably assist each other in connection with their respective obligations under the applicable Data Protection Laws.

30.6 Mainspring shall be entitled, at any time, without requiring the Manager's consent, to enter into arrangements with any of its Affiliates or a Third-Party Processor with the purposes of such Affiliate(s) and/or Third-Party Processor(s) becoming the Processor of Personal Data for Mainspring under this Agreement.

30.7 The Manager acknowledges, agrees and consents to the terms of Mainspring's Data Protection Policy from time to time, which are incorporated by reference to this Clause.

## **31 INTELLECTUAL PROPERTY RIGHTS**

31.1 Mainspring retains all copyright and other intellectual property rights in everything developed, designed or created by it either before or during the course of carrying out the Services, including systems, methodologies, know-how, and working papers. It also retains all copyright and other intellectual property rights in all reports or other materials provided by Mainspring to the Manager.

## **32 USE OF NAME**

32.1 The Manager may use Mainspring's name, and disclose the fact that Mainspring has been appointed to provide the Services. Mainspring may mention that the Manager is a client in any marketing materials, including displaying their logos, in any client lists electronic or otherwise. For all other purposes, a Party is required to obtain the other Party's prior written consent.

32.2 For so long as this Agreement is in effect, Mainspring grants the Manager a revocable, non-exclusive, non-transferable, licence to use Mainspring's name and trademark in the offering documentation of the Manager (and any amendments thereof), any registration statements or other filings, forms or reports required under applicable laws (to the extent such use is necessary to make any disclosures thereunder not misleading) and in any promotional or sales related materials relating to the Manager. Such permission is granted subject to the following conditions:

- a) the Manager will provide Mainspring with templates of any materials in which such name or trademark is used a reasonable time in advance of initial use (not to be shorter than 10 Business Days). Any such materials may only be used by the Manager if it has been approved by Mainspring (in its sole discretion). Once Mainspring provides its approval, such materials may be used by the Manager only in the form and substance approved;
- b) the Manager shall be fully responsible for preparing and delivering all communications to its investors or prospects as required by, and in accordance with, all applicable laws;
- c) this permission to use Mainspring's name and service mark will be revoked automatically: (i) on termination of this Agreement and (ii) should Mainspring (at its sole discretion) notify the Manager that such use of name contravenes any applicable laws. Upon such revocation, the Manager shall forthwith cease to use Mainspring's name and trademark; and
- d) without prejudice to Clause 25 the Manager shall indemnify Indemnified Persons against any Losses paid, suffered, incurred or made against the Indemnified Persons as a result of or in connection with any use or misuse by the Manager of Mainspring's name (and any derivatives thereof) or trademark. The indemnity set out in this Clause 32.2 shall survive the termination of this Agreement.

### **33 RECORDINGS**

- 33.1 Subject to compliance with Regulatory Rules, either Party may record telephone or electronic conversations with the other.
- 33.2 The Manager and Mainspring consent to telephonic or electronic readings for the purposes of complying with the FCA Rules and for security and quality of service purposes and agree that either may produce telephonic or electronic recordings or computer records as evidence in any proceedings brought in connection with this Agreement.

### **34 RECORD KEEPING**

- 34.1 Record keeping of the documents agreed between Mainspring and the Manager which sets out the rights and obligations of the Parties under an agreement to provide services or the terms on which Mainspring provides services shall be maintained by Mainspring for at least the duration of the relationship with the Manager.
- 34.2 Additionally, records and accounts will be maintained by Mainspring so that they may be used as an audit trail.

### **35 COMPLAINTS**

- 35.1 All formal complaints (including MiFID Complaints as defined under the FCA Rules) by the Manager relating to the Services provided by Mainspring under this Agreement should in the first instance be made in writing to the compliance officer of Mainspring and may be submitted free of charge. Subsequently, the Manager may have a right to complain directly to the Financial Ombudsman Service. A copy of Mainspring's complaints handling procedures is available from Mainspring at the following link <https://mainspringfs.com/policies/complaints>, and will otherwise be provided in accordance with the FCA Rules. Any proposed solution shall not be deemed a compromise by either Party to this Agreement of its respective rights under this Agreement or generally at law.

### **36 COMPENSATION**

- 36.1 Mainspring is covered by the Financial Services Compensation Scheme (the "**Scheme**") in the UK. The Manager may be entitled to compensation from the Scheme if Mainspring cannot meet its obligations. This depends on the type of business and the circumstances of the claim. Generally, a professional client will not be eligible for compensation. The amount and scope of the cover offered by the Scheme (and any rules laid down by the EEA State pursuant to article 2(3) of the Investor Compensation Directive) will be made available to the Manager on request or at the Scheme's official website at [www.fscs.org.uk](http://www.fscs.org.uk).

### **37 FORCE MAJEURE**

37.1 No Party to this Agreement shall be liable for any Losses caused directly or indirectly by, or in connection with, any failure or delay in performing any of its obligations under or pursuant to this Agreement, and any such failure or delay in performing its obligations will not constitute a breach of this Agreement, if and to the extent that such failure or delay is due to an event of Force Majeure and the Party so delayed will be entitled to a reasonable extension of time for performing such obligations.

37.2 If a Force Majeure event occurs, the Party affected by it shall:

- a) as soon as reasonably practicable, upon becoming aware of the Force Majeure event, give notice to the other Party, setting out details of the nature, extent and anticipated duration of the Force Majeure event, the expected impact of the Force Majeure event on its ability to perform its obligations and the steps it is taking and/or proposes to take to comply with Clause 37.2b);
- b) use its reasonable endeavours to mitigate the effects of the Force Majeure event, to continue to perform the affected obligations notwithstanding the occurrence of the Force Majeure event and seek to ensure that the Force Majeure event comes to an end;
- c) keep the other Party informed of all developments relating to the Force Majeure event and the steps being taken to comply with Clause 37.2b), including by providing regular written updates in respect of all matters covered by the notice given under Clause 37.2a) and by attending such meetings and supplying such information as may reasonably be required by the other Party from time to time; and
- d) continue to perform all of its obligations under this Agreement, the performance of which is not affected by the Force Majeure event.

### **38 NOTICES**

38.1 Any notice or other communication in respect of this Agreement, shall be in writing and shall be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier, to each Party required to receive the notice or communication at its address as set in Schedule 5 or as otherwise specified by the relevant Party by notice in writing to each other Party.

38.2 Any notice shall be deemed to have been duly received:

- a) if delivered personally, at the time of delivery;
- b) in the case of pre-paid recorded delivery or registered post, 3 Business Days from the date of posting, or in the case of airmail 10 Business Days after posting; and
- c) in the case of email, at the time of transmission,

provided that, where in the case of personal and email delivery such delivery occurs either after 4:00pm on a Business Day, or on a day other than a Business Day, service shall be deemed to occur at 9:00am on the next Business Day (such times being local time at the address of the recipient).

38.3 In proving such service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant Party and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery or registered post or that the notice was transmitted by email to the email address of the relevant Party.

38.4 This Clause 38 does not apply to the service of any proceedings or other documents in any legal action.

### **39 ASSIGNMENT**

39.1 Save as provided in this Clause 39, neither Party may assign, transfer or novate, or purport to assign, transfer or novate, any of its rights or obligations under this Agreement without the prior written consent of the other Party, such request not to be unreasonable withheld or delayed.

39.2 The Manager agrees that Mainspring may assign, transfer or novate its rights or obligations under this Agreement to one or more of its Affiliates by giving the Manager notice which shall specify a date upon which the assignment shall become effective.

#### **40 ENTIRE AGREEMENT, WAIVERS AND REMEDIES**

40.1 This Agreement, including its Schedules, and documents referred to herein and any current Instructions, constitutes the entire agreement between the Parties and supersedes and extinguishes all prior understandings, statements, negotiations, undertakings, arrangements, drafts, agreements, representations, proposals, marketing or communications, whether or not executed or offered, and all conditions and warranties whether expressed, implied or otherwise, between the Parties, whether written or oral relating to its subject matter. Neither Party has relied on any statements or representations during the negotiations other than those expressly incorporated in this Agreement. Neither Party will rely on any understandings, statements, negotiations, undertakings, arrangements, drafts, agreements, representations, proposals, marketing, communications, conditions or warranties (whether expressed, implied or otherwise) unless they are expressly incorporated in this Agreement in accordance with Clause 44. Each Party agrees to perform such duties and only such duties as are specifically set forth in this Agreement it being expressly understood that there are no implied duties hereunder.

40.2 No failure on the part of a Party to exercise, nor delay by it in exercising, any right or remedy under this Agreement or by law shall operate as a waiver thereof, or of any other right or remedy, nor shall any single or partial exercise or any right or remedy preclude any other further exercise of that right or remedy or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

40.3 So far as permitted by law and except in the case of fraud, the Manager agrees and acknowledges that its only rights and remedies shall be for breach of the terms of this Agreement, to the exclusion of all other rights and remedies including those in tort or arising under statute.

#### **41 NON-SOLICITATION**

41.1 Neither the Manager, its affiliates, during the term of this Agreement and for a period of one year following the termination of the Agreement, howsoever caused, shall directly or indirectly approach, solicit or otherwise endeavour to remove any employee from the employ of Mainspring or any of its Affiliates or agents, save with the agreement of Mainspring. This Clause 41.1 shall not prevent the Manager engaging staff as a result of an unsolicited response to an advertisement.

41.2 If the Manager offers any form of work either directly or indirectly to any employee of Mainspring or any Affiliate or agent of Mainspring, which they accept, the Manager (as appropriate) shall pay compensation to Mainspring or the Affiliate or agent (as the case may be) in accordance with this Clause 41.2. The compensation shall be calculated as the total payable to the employee over the previous six (6) month period, or where six (6) months have not been completed, it shall be calculated on a pro-rata basis as if six (6) months had been completed. In addition, an amount of 20% of salary plus benefits shall be payable immediately by the Manager (as appropriate) to Mainspring, its Affiliate or agent as applicable.

#### **42 TUPE**

42.1 The Parties confirm that they do not consider that the TUPE will apply to transfer the employment of any person from Mainspring to the Manager or Replacement Provider where all or part of the Services cease to be provided by Mainspring for any reason and/or where all or part of the Services continue to be provided by the Manager or a Replacement Provider, or where the scope of the Services changes.

#### **43 SEVERABILITY**

43.1 If any clause or part of this Agreement is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision shall, to the extent required, be severed from this Agreement and shall be ineffective without, as far as is

possible, modifying any other clause or part of this Agreement and this shall not affect any other provision of this Agreement, which shall remain in full force and effect.

#### **44 AMENDMENT**

44.1 No variation of this Agreement or of any of the documents referred to in it shall be valid unless it is in writing and signed by a director or authorised person on behalf of each of the Parties except that:

- a) Mainspring may amend this Agreement in order to comply with, or to make the Agreement consistent with, any legal or regulatory requirements or changes to which Mainspring may be subject by providing a written notice to the Manager of such amendment;
- b) the Manager may from time to time notify Mainspring in writing of any changes to the Authorised Persons; and
- c) either Party may amend their contact details in Schedule 5 by providing a written notice to the other Party of such amendment.

44.2 Any amendment under sub-Clauses 44.1(a), (b) and (c) shall take effect on the date specified in the written notice, which shall not be less than 5 Business Days after the issue of the notice.

#### **45 RIGHTS OF THIRD PARTIES**

45.1 A person who is not a Party to this Agreement (other than a successor in title, permitted assignee, or Indemnified Persons) 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 a third party which exists or is available apart from that Act. The terms of this Agreement or any of them may be varied, amended or modified or this Agreement may be suspended, cancelled or terminated by agreement in writing between the Parties or this Agreement may be rescinded (in each case), without the consent of any third party.

#### **46 COUNTERPARTS**

46.1 This Agreement may be executed in any number of counterparts, each of which is an original but all of which together constitute one and the same instrument. Delivery of an executed counterpart signature page of this Agreement by e-mail (PDF) will be as effective as delivery of a manually executed counterpart of this Agreement.

#### **47 GOVERNING LAW**

47.1 This Agreement is governed by, and shall be construed in accordance with, the laws of England and Wales.

47.2 The Parties agree that the English courts shall have exclusive jurisdiction to determine any Proceedings. Each Party irrevocably submits to the exclusive jurisdiction of the English courts in respect of such Proceedings and waives any objection to any such Proceedings in such courts on the grounds of venue, waives any claim that Proceedings brought in such courts have been brought in an inappropriate or inconvenient forum and further waives the right to object, with respect to such Proceedings, that such courts do not have any jurisdiction over such Party.

The Parties have executed this Agreement with effect from the Effective Date.

**THIS AMENDMENT AGREEMENT** (the “**Amendment**”) is dated and will become effective on 6 May 2020 (the “**Effective Date**”)

**BETWEEN**

- (1) **Mainspring Nominees Limited** a company incorporated under the laws of England and Wales with registered number 08255713 whose registered office is at 20-22 Bedford Row, 4<sup>th</sup> Floor, London, England, WC1R 4EB, (“**Mainspring**”); and
- (2) **MMC Ventures Limited** a limited liability company incorporated under the laws of England and Wales with registered number 03946009 whose registered office is at 24 High Holborn, London, WC1V 6AZ (the “**Counterparty**”),

each a “**Party**” and together the “**Parties**”.

**WHEREAS**

- (A) This Amendment is supplemental to the custody agreement dated 14 August 2019 made between Mainspring and the Counterparty (the “**Agreement**”).
- (B) The Parties wish to amend the Agreement as set out in this Amendment.

**THE PARTIES AGREE THAT:**

**1 DEFINITIONS**

- 1.1 Terms defined in the Agreement shall have the same meaning when used in this Amendment unless defined herein.

**2 AMENDMENTS**

- 2.1 In consideration of the mutual representations, warranties, undertakings, acknowledgements and agreements contained in the Agreement, and in accordance with Clause 44 of the Agreement, the Parties agree that with effect from the Effective Date:
  - (a) Clause 8.11 shall be replaced with the following new clause: *“Unless otherwise agreed between Mainspring and the Manager in writing, Mainspring will pay nil interest on Cash held in the Cash Account if the interest rate the bank of the Cash Account is charging is negative. In the event the bank of the Cash Account is charging negative interest on cash held in the Cash Account, such charge will be a cost of the Cash Account. All interest earned, if any, on Cash held in Cash Accounts will be calculated daily on each portfolio and will be allocated quarterly during January, April, July and October.”*
  - (b) A new Clause 8.16 shall be added immediately after Clause 8.15: *“The Client Bank Accounts will be opened as omnibus accounts, and therefore the Cash held for all Investors will be held together with cash held by Mainspring for its other customers. As a result, where any distributions or other entitlements or benefits arise or charges and fees are levied by the bank in respect of Cash which are held by Mainspring for the Manager in an omnibus client account together with cash held by Mainspring for its other customers, such distributions, entitlements or benefits or charges and fees shall be allocated among the Manager and the other customers pro rata in proportion to the amount of such pooled cash which are held for each such customer and the Manager.”*
  - (c) Clause 13.8 shall be amended by deleting the following text: *“EU member state”* and replacing it with *“the UK and of an EU member state”*; and
  - (d) All references to *“EEA”* throughout the Agreement shall be deleted and replaced with *“the UK and the EEA”*.

**3 REPRESENTATIONS AND WARRANTIES**

3.1 Mainspring and the Counterparty each hereby repeat the representations and warranties contained in the Agreement, as appropriate, which continue to be true and accurate as of the Effective Date.

**4 FURTHER ASSURANCE**

4.1 Each Party to this Amendment shall perform, execute and deliver such further acts and documents as may be required by law or reasonably requested by the other Party in order to implement the purposes of this Amendment.

**5 CONTINUANCE OF AGREEMENT**

5.1 Mainspring and Counterparty each confirm and acknowledge that, subject to the amendments to the Agreement as a result of this Amendment, the Agreement remains in full force and effect and shall be read and construed as one document with this Amendment.

5.2 In the event of a conflict between the terms of this Amendment and the terms of the Agreement, the terms of the Amendment shall prevail.

**6 RIGHTS OF THIRD PARTIES**

6.1 A person who is not a Party to this Amendment (other than a successor in title, permitted assignee or Indemnified Persons) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Amendment but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

**7 COUNTERPARTS**

7.1 This Amendment may be executed in any number of counterparts, each of which is an original but all of which together constitute one and the same instrument.

7.2 Delivery of an executed counterpart signature page of this Amendment by e-mail (PDF) will be as effective as delivery of a manually executed counterpart of this Amendment.

**8 GOVERNING LAW AND JURISDICTION**

8.1 This Amendment is governed by, and shall be construed in accordance with, the laws of England and Wales.

8.2 The Parties agree that the English courts shall have exclusive jurisdiction to determine any dispute, controversy, suit, action, proceedings or claim of whatever nature arising out of or in any way in connection with this Agreement, its subject matter or its formation (including non-contractual disputes or claims) ("**Proceedings**"). Each Party irrevocably submits to the exclusive jurisdiction of the English courts in respect of such Proceedings and waives any objection to any such Proceedings in such courts on the grounds of venue, waives any claim that Proceedings brought in such courts have been brought in an inappropriate or inconvenient forum and further waives the right to object, with respect to such Proceedings, that such courts do not have any jurisdiction over such Party.

The Parties have executed this Amendment with effect from the Effective Date.

Executed for and on behalf of Mainspring

By:  \_\_\_\_\_

Title: **DIRECTOR**

Print Name: Stephen Geddes



Executed for and on behalf of the Counterparty

DocuSigned by:  
*Bruce Macfarlane*  
By: \_\_\_\_\_  
46961B559CBA462...

Title: **AUTHORISED SIGNATORY**

Print Name: Bruce Macfarlane