

**DATED** \_\_\_\_\_

**(1) CUSTODIAN CAPITAL (101) GENERAL PARTNER LIMITED**

**(2) CUSTODIAN CAPITAL LIMITED**

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**OPERATOR AGREEMENT**

in relation to

Custodian Capital (101) Limited Partnership

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Pinsent Masons

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**BETWEEN**

- (1) **CUSTODIAN CAPITAL (101) GENERAL PARTNER LIMITED** a limited liability company registered in England and Wales with number 7685954 whose registered office is at MW House, 1 Penman Way, Grove Park, Enderby, Leicester, LE19 1SY (the "**General Partner**"), acting for and on behalf of **CUSTODIAN CAPITAL (101) LIMITED PARTNERSHIP**, a limited partnership registered in England with partnership number LP[ ], whose registered office is at MW House, 1 Penman Way, Grove Park, Enderby, Leicester, LE19 1SY (the "**Partnership**"); and
- (2) **CUSTODIAN CAPITAL LIMITED** a limited liability company registered in England and Wales with number 06504305 whose registered office is at MW House, 1 Penman Way, Grove Park, Enderby, Leicester, LE19 1SY (the "**Operator**").

**RECITALS**

- (A) The General Partner is the general partner of the Partnership, a limited partnership constituted pursuant to a limited partnership agreement dated [ ] as amended from time to time (the "**Partnership Agreement**") and registered under the Limited Partnerships Act 1907.
- (B) The General Partner has no power to operate the Partnership for the purposes of the Financial Services and Markets Act 2000 (the "**FSMA**"). The General Partner is required under the Partnership Agreement to ensure that all aspects of the operation of the Partnership which constitute regulated activities or require authorisation under the FSMA are at all times undertaken by an appropriately authorised person authorised to do so by the Financial Services Authority (the "**FSA**") under the FSMA to the exclusion of the General Partner who shall have no responsibility thereof.
- (C) The Operator is authorised and regulated by the FSA with reference number 541984 for the purposes of the FSMA to carry on certain regulated activities, including the activities of establishing, operating and winding up collective investment schemes and has the relevant permissions under Part IV of the FSMA to operate the Partnership.
- (D) The General Partner, on behalf of the Partnership has the power under the Partnership Agreement to appoint an operator to establish and operate the Partnership and hereby appoints the Operator to establish and operate the Partnership and to carry out all aspects of the operation of the Partnership which are required to be carried out by a person who is authorised under the FSMA and the Operator accepts this appointment subject to the terms of this Agreement.

**IT IS AGREED** as follows:-

1. **INTERPRETATION**

1.1 In this Agreement:

|                                 |  |
|---------------------------------|--|
| <b>"Agreement"</b>              | means this agreement (and any schedule to it) as amended, varied or restated from time to time   |
| <b>"Business Day"</b>           | means a day (other than a Saturday or Sunday) when banks are open in London  |
| <b>"Commencement Date"</b>      | means the date of this Agreement   |
| <b>"Information Memorandum"</b> | means the information memorandum inviting applications to acquire interests in the Partnership, as supplemented or updated from time to time |
| <b>"Operator Services"</b>      | means the services to be provided by the Operator under this Agreement as set out in   |

## Schedule 1

- 1.2 In this Agreement words and expressions defined in the Partnership Agreement, the FSMA, or the rules and principles of the FSA (in that order of priority) shall, save where the context requires otherwise, have the same meanings.
- 1.3 The clause headings used in this Agreement are inserted for ease of reference only and shall not affect the construction of this Agreement.
- 1.4 References in this Agreement to the "parties" and "clauses" are references respectively to the parties and the clauses of, this Agreement.
- 1.5 References to "persons" includes a reference to an individual, a firm, a body corporate, a government authority, state or agency of a state or government body or any joint venture wherever incorporated or situated (in each case whether or not have legal personality), a body or instrumentality, an unincorporated body, a partnership, a trust, a corporation, a limited liability corporation and any other entity and includes a reference to that person's legal personal representative and successors.
- 1.6 References to the word "include" or "including" (or any similar term) are not to be construed as implying any limitation and general words introduced by the word "other" (or any similar) shall not be given a restrictive meaning by reason of the fact that they are preceded or followed by words indicating a particular class of acts, matters or things.
- 1.7 Except where the context specifically requires otherwise, words importing one gender shall be treated as importing any gender, words importing individuals shall be treated as importing corporations and vice versa, words importing the singular shall be treated as importing the plural and vice versa, and words importing the whole shall be treated as including a reference to any part.
- 1.8 A reference to a statutory provision or enactment includes a reference to any amendment, modification, extension, consolidation, replacement or re-enactment of such provision or enactment (whether before or after the date of this Agreement) and to any regulation, instrument or order or other subordinate legislation made under such provision or enactment.

## 2. APPOINTMENT

- 2.1 With effect from the Commencement Date, the General Partner, on behalf of the Partnership, appoints the Operator to establish and operate the Partnership as a collective investment scheme for the purposes of the FSMA, to manage the Property and to be exclusively responsible for the provision of the Operator Services in each case to the extent that to carry out those services would require a person to be authorised pursuant to the FSMA to the exclusions of the General Partner and the Operator hereby accepts the appointment and agrees to provide the Operator Services, subject to the terms and conditions set out in this Agreement.
- 2.2 The General Partner shall not, during the course of this Agreement, undertake any of the Operator Services to be provided by the Operator pursuant to this Agreement.
- 2.3 The functions and duties which the Operator undertakes on behalf of the Partnership shall not be exclusive and the Operator and any of its Affiliates may from time to time perform similar functions and duties for others and, without limitation, may act as a general partner, manager in or of other funds or pooled investment vehicles or engage in any other activity including any business which may compete with the business of the Partnership as set out in the Partnership Agreement, without accounting for and paying any fees or profits received by the Operator in such business provided however that the Operator continues properly to manage the affairs of the Partnership.
- 2.4 The Operator has classified the Partnership as a Professional Client. The Partnership has the right to request a different client categorisation. If the Partnership requests to be categorised as a Retail Client, thereby requiring a higher level of regulatory protection, the Operator will not be able to provide its services to the Partnership. If the Partnership requests classification as an Eligible Counterparty and the Operator agrees to such categorisation, the Operator would no longer be required by regulatory rules to provide certain protections granted to Professional

Clients. The regulatory protections concerned involve formal requirements in the following areas:

- 2.4.1 the requirement for the Operator to act in accordance with the Partnership's best interests;
- 2.4.2 the Operator's obligation to the Partnership to provide appropriate information before providing the Operator Services;
- 2.4.3 the restriction on the payment or receipt by the Operator of any inducements;
- 2.4.4 the requirement that the Partnership receives from the Operator adequate reports on the Operator Services provided to the Partnership; and
- 2.4.5 the requirement to ensure that information the Operator provides is fair, clear and not misleading.

### **3. PROVISION OF THE OPERATOR SERVICES**

- 3.1 The Operator shall provide the Operator Services to the Partnership subject to the terms and conditions set out in this Agreement. Any changes or additions to the Operator Services must be agreed in writing by the parties.
- 3.2 The Operator may at any time after notifying the General Partner in writing make any changes to the Operator Services which are necessary to comply with any applicable statutory requirements, or which do not materially affect the nature or quality of the Operator Services.
- 3.3 The Operator will at all times act as the operator of the Partnership and provide the Operator Services in a good and efficient manner using all reasonable skill, care, attention and diligence and, in accordance with the FSA Rules, the Operator shall devote as much of its time and attention to the affairs of the Partnership as shall be reasonably required for the management and operation of the Partnership's business and the achievement of the Partnership's objectives.

### **4. POWERS AND DUTIES OF THE OPERATOR**

- 4.1 Subject to the provisions of the FSMA, the Operator shall have full power and authority on behalf of the Partnership (at the Partnership's expense) to bind the Partnership without prior consultation with any of the Partners to:-
  - 4.1.1 to carry out all the powers, duties, obligations and authorities conferred upon the Operator and to exercise any discretions of the General Partner under the Partnership Agreement which are required to be exercised by the Operator;
  - 4.1.2 do all such acts and things as are set out in clause 3.3 of the Partnership Agreement or stated elsewhere in the Partnership Agreement to be duties, powers or responsibilities of the General Partner; and
  - 4.1.3 generally do all other things on behalf of the Partnership as may in the Operator's opinion be reasonably required in connection with or ancillary to the purposes and objectives of the Partnership.
- 4.2 The Operator shall have no responsibility for the matters reserved for the decision of the General Partner and/or Limited Partners under the Partnership Agreement unless such matters are required to be carried out or conducted by a person authorised pursuant to the FSMA.
- 4.3 Subject to Clause 4.4, the General Partner shall not exercise any of the powers exercisable by the Operator which have been entrusted to and conferred upon the Operator pursuant to this Agreement.
- 4.4 The Operator may delegate such of the Operator Services as it considers appropriate to a third party, provided always that:-

- 4.4.1 the Operator shall retain responsibility and liability for the performance of all the Operator Services;
- 4.4.2 such third party is fit and proper to perform its delegated functions and is selected, appointed and retained by the Operator applying reasonable care and
- 4.4.3 if such third party is to carry on regulated activities for the purposes of the FSMA it is authorised to do so by the FSA.

## 5. ACCOUNTS AND REPORTING

The Operator shall comply with clauses 13 and 15 of the Partnership Agreement in respect of books and records, Partnership accounts, tax information and reports and shall supply such other reports and information to Limited Partners as the General Partner may reasonably request from time to time.

## 6. FEES AND EXPENSES

- 6.1 As compensation for the Operator's services under this Agreement, the Operator shall be entitled to be paid by the Partnership the following fees (plus VAT where applicable):
  - 6.1.1 An amount equal to 4 per cent of the acquisition price of the Property which shall be paid as soon as reasonably practicable after the date hereof;
  - 6.1.2 An annual fee in an amount equal to 1.25 per cent of the Value of the Property. Such amount shall be paid in two instalments as soon as reasonably practicable after each Half Year based on the Value of the Property undertaken as at the date of the relevant Half Year.
- 6.2 The General Partner shall procure that the Partnership shall reimburse to the Operator all reasonable costs and expenses properly incurred by the Operator in the performance of the Operator Services other than those costs and expenses contemplated in clause 6.3.
- 6.3 All of the Operator's ordinary internal day-to-day costs and expenses incurred by the Operator in providing the office facilities, equipment and personnel in connection with the performance of the Operator Services under this Agreement shall be borne by the Operator itself and shall not be for the account of the Partnership.
- 6.4 All sums payable under this Agreement are exclusive of VAT.

## 7. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

- 7.1 The General Partner hereby represents and warrants that it has full power and authority to appoint the Operator to provide the Operator Services, to authorise the Operator to arrange transactions in accordance with this Agreement and to enter into, perform and comply with this Agreement.
- 7.2 The Operator represents and warrants that:-
  - 7.2.1 it has, and will for the duration of its appointment as operator of the Partnership maintain all relevant permissions under Part IV of the FSMA which it requires to act in such capacity; and
  - 7.2.2 it will provide the Operator Services under this Agreement in accordance with the provisions of FSMA, the FSA Rules and any other applicable regulator requirements.
- 7.3 The Operator undertakes that it will comply with all applicable laws and regulatory requirements that it is subject to in providing the Operator Services and performing its functions and exercising its duties and obligations under this Agreement.

## 8. CONFIDENTIALITY

- 8.1 The Operator shall, and shall procure that every person connected with or associated with the Operator shall, keep confidential (and ensure that its employees and agents shall keep

confidential) all information relating, to the Property, the Partnership and the Limited Partners (including the identity of each Limited Partner, the amount of its Commitment and the performance of its investment in the Partnership), except to the extent that:-

- 8.1.1 the Limited Partner consents to the disclosure of such information;
  - 8.1.2 such information has become known to the public other than as a result of a breach of this Clause 8.1;
  - 8.1.3 the Operator considers that it is necessary or appropriate for the Operator to share such information with any person in the proper course of the Partnership's business, including where the Operator (acting reasonably) believes that disclosure is necessary to enable the Partnership to make the Investment; or
  - 8.1.4 the Operator is required to disclose such information by law, court order or the requirements of any governmental or regulatory authority that has jurisdiction over the Operator.
- 8.2 The Operator shall be entitled to disclose any information about the Partnership, including details of the Partnership's investments and investment performance, for the purpose of marketing any fund of which the Operator or any of its Associates is or expects to be the Operator or investment adviser, provided that such information shall only be disclosed to a restricted number of persons and on a confidential basis.
- 8.3 The Operator shall not be required to share with the Partnership any confidential information concerning potential investments obtained by the Operator or any of its Associates, in the course of providing services to any other client.
- 8.4 The provisions of Clauses 8 shall survive termination of this Agreement.
- 8.5 Notwithstanding the foregoing, the Operator and/or any of its Associates, may disclose confidential information relating to the Partnership and the Partnership's investments to its respective directors, officers, employees, partners, attorneys professional advisers or financial advisers in connection with the monitoring of their investment in the Partnership provided that such persons have agreed to be bound by equivalent confidentiality restrictions to those contained in this Agreement.
- 9. LIABILITY**
- 9.1 To the extent that they relate to the Operator and its Associates, and to any Indemnified Person who is either an officer, director, employee, shareholder, agent, member, adviser, consultant, or partner of the Operator or any Associate of the Operator the provisions of clause 19 of the Partnership Agreement are incorporated into this Agreement and are binding as between the Partnership and the Operator.
- 9.2 The Operator shall not be liable to any Limited Partner or the Partnership for the negligence, dishonesty or bad faith of any agent acting for the Operator or the Partnership provided that such agent was selected, engaged and retained by the Operator acting in good faith and exercising reasonable care.
- 9.3 Subject to applicable law, where the Operator acts in reliance on the advice or counsel of any person referred to in Clause 4.3.14 of the Partnership Agreement, the Operator is not liable for any loss or damage resulting from its reliance on advice provided within that person's expertise provided the appointment was in good faith.
- 9.4 This Clause 9 does not exclude or limit any duty or liability that the Operator may have to any customer under the regulatory system contained in or established under FSMA.
- 9.5 The provisions of this Clause 9 shall survive termination of this Agreement
- 10. TERM AND TERMINATION**
- 10.1 This Agreement shall commence on the Commencement Date and shall continue until terminated in accordance with this Clause 10.

- 10.2 Either party may (without limiting any other remedy) at any time terminate this Agreement by giving written notice to the other party (a "**Defaulting Party**") upon the happening of any of the following events:
- 10.2.1 the bankruptcy, insolvency or voluntary liquidation (except for the purposes of reconstruction or amalgamation) of the Defaulting Party;
  - 10.2.2 the negligence, fraud, wilful default, bad faith or professional misconduct of the Defaulting Party in connection with the operation of the Partnership;
  - 10.2.3 the Defaulting Party commits a material breach of the Operator Agreement or the Partnership Agreement and where such material breach is capable of remedy such material breach has not been remedied within 30 days' of written notice of the same having been served on the Defaulting Party;
- 10.3 The Operator shall promptly notify the Partnership if the event set out in Clause 10.2 occurs or if it becomes aware of any circumstances, which, in the Operator's reasonable opinion, is likely to result in the occurrence of any such event.
- 10.4 This Agreement will terminate on the earliest to occur of:
- 10.4.1 the date of conclusion of the winding up or the dissolution of the Partnership; or
  - 10.4.2 the Operator ceasing to be an authorised person under the FSMA or to be permitted by the FSA to act as operator of an unregulated collective investment scheme or to carry on any other relevant regulated activity.

## 11. **ACTION UPON TERMINATION**

- 11.1 All rights and obligations of the parties shall cease to have effect immediately upon termination of this Agreement except that termination shall not affect:-
- 11.1.1 the accrued rights and obligations of the parties at the date of termination; and
  - 11.1.2 the continued existence and validity of the rights and obligations of the parties under those clauses which are expressed to survive termination and any provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
- 11.2 Upon the termination of this Agreement, the parties shall co-operate and shall take all reasonable steps as reasonably requested in order to minimise effects resulting from the termination of this Agreement and to ensure that such termination shall not prejudice the completion of transactions already initiated.
- 11.3 The Operator shall forthwith upon termination deliver to the General Partner a full account including a statement of all the investments of the Partnership, the income derived therefrom since the last report to the Partnership, and the value at which they were acquired and all papers, documents and other property belonging to the Partnership or relating to the Partnership which it holds. The Operator shall be entitled to retain copies of any information which it requires to comply with any legal or regulatory requirement including where required by the FSA or FSMA.
- 11.4 Notwithstanding the termination of this Agreement, the Partnership shall complete all transactions arranged by the Operator hereunder prior to the termination date and shall pay to the Operator all additional sums, fees and expenses which have become due to the Operator before the time at which the Agreement is terminated.
- 11.5 Upon the termination of this Agreement, the General Partner shall not be entitled to recover any part of the Operator Fee already paid or accrued prior to the effective date of termination of this Agreement.

## 12. **FSMA OBLIGATIONS**

For the avoidance of doubt, insofar as any provisions of this Agreement or the Partnership Agreement might, but for this Clause 12, confer upon the General Partner any right or obligation for which pursuant to the FSMA an authorised or exempted person is required to be



responsible, such right or obligation shall, upon the Operator being notified thereof, be exercised or discharged by the Operator to the exclusion of the General Partner.

### **13. COMPLIANCE WITH PARTNERSHIP AGREEMENT AND INFORMATION MEMORANDUM**

13.1 The parties undertake, insofar as they are respectively able, to perform their obligations under this Agreement in a manner which is consistent with the Partnership Agreement. Where any provision of this Agreement conflicts with the Partnership Agreement, this Agreement shall prevail and the parties shall be obliged to fulfil their obligations under this Clause 13 in priority to any conflicting obligation contained in any other provision of the Partnership Agreement.

13.2 The parties undertake, insofar as they are respectively able, to perform their respective obligations under this Agreement in accordance with the representations as to the management and operation of the Partnership set out in the Information Memorandum. Where any provision of the Information Memorandum conflicts with this Agreement, this Agreement shall prevail and the parties shall be obliged to fulfil their obligations under this Clause 13 in priority to any conflicting obligation contained in the Information Memorandum.

### **14. CONFLICTS OF INTEREST**

14.1 Circumstances may arise where there is a conflict of interest between the Operator, the General Partner and the Partnership, or between the Partnership and another client of the Operator. The Operator will provide the General Partner with a copy of its conflicts of interest policy. In the event of a conflict of interest, the Operator shall ensure that the conflict is managed fairly.

14.2 If the Operator identifies a conflict of interest, the Operator shall promptly disclose the existence of such conflict to the General Partner, and shall consult with the General Partner as to how such conflict should be resolved.

### **15. COMPLAINTS AND COMPENSATION**

If the General Partner or any Limited Partner has any complaint about the performance of the Operator under this Agreement, that complaint should be directed, in the first instance, to the Compliance Officer of the Operator. As a Professional Client, the Partnership is not eligible to complain to the Financial Ombudsman Service. As a collective investment scheme the Partnership is not eligible to compensation under the Financial Services Compensation Scheme. The Partnership acting on behalf of its Limited Partners may be entitled to compensation from the Financial Services Compensation Scheme. Payments under the scheme are limited and subject to maximum payments to any one Limited Partner. The level of compensation currently available under the scheme depends upon the type of business and the circumstances of the claim as well as whether the Limited Partner is, depending on the Limited Partner's circumstances, an eligible claimant under the rules of the Financial Services Compensation Scheme.

### **16. GENERAL**

#### **16.1 Entire Agreement**

This Agreement (together with any documents referred to in it) contains the entire agreement and understanding of the parties and supersedes all prior agreements, understandings or arrangements (both oral and written) relating to the subject matter of this Agreement.

#### **16.2 Amendments**

An amendment to this Agreement shall be in writing and signed by or on behalf of each party.

#### **16.3 No Partnership or Agency**

Nothing in this Agreement shall be taken to constitute a partnership between the parties. Except as specifically provided in this Agreement, neither of the parties shall by reason of this Agreement be empowered to act as agent for the other party nor to pledge the credit of the other party nor shall either party be held liable for or incur liability in respect of the acts or defaults of the other party to this Agreement.

16.4 **Waiver**

No delay or omission by any party to this Agreement in exercising any right or remedy under this Agreement shall constitute a waiver of the right or remedy or a waiver of any other rights or remedies any party may otherwise have and no single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy

16.5 **Assignment**

A party may not assign any of its rights and obligations under this Agreement without the prior written consent of the other party.

16.6 **Agreement Binding Upon Successors and Assigns**

Except as otherwise specified herein, this Agreement shall enure for the benefit of and shall be binding upon the heirs, executors, administrators or other representatives, successors and assigns of the respective parties hereto.

16.7 **Further Assurance**

At all times after the date of this Agreement, the parties shall, at their own expense, execute all such documents and do all such acts and things as may reasonably be required for the purpose of giving full effect to this Agreement.

16.8 **Notices**

16.8.1 A notice given under this Agreement:

- (a) shall be in writing in the English language (or be accompanied by a properly prepared translation into English);
- (b) shall be sent for the attention of the person, and to the address given in this Clause 16.8.4 (or such other address or person as the relevant party may notify to the other party); and
- (c) shall be:
  - (i) delivered personally; or
  - (ii) sent by pre-paid first class post or recorded delivery; or
  - (iii) if the notice is to be served by post outside the country from which it is sent, sent by airmail; or
  - (iv) sent by facsimile to the facsimile number specified in this Clause 16; or
  - (v) sent by electronic mail to the electronic mail address of the addressee specified in this Clause 16.

16.8.2 If the notice is sent or delivered in a manner provided by Clause 16.8.1(c), it must be treated as given to and received by the party to which it is addressed:-

- (a) if delivered personally before 5pm on a Business Day at the place of delivery, at the time of delivery, and otherwise on the next Business Day at the place of delivery; or
- (b) in the case of pre-paid first class post or recorded delivery, 48 hours from the date of posting; or
- (c) in the case of airmail, on the 5th Business Day after posting; or

- (d) if sent by facsimile or electronic mail before 5pm on a Business Day at the place of receipt, on the day it is sent, and otherwise on the next Business Day at the place of receipt; or
- (e) if deemed receipt under the previous paragraphs of this Clause 16.8.2 is not within business hours (meaning 9.00am to 5.30pm on a day that is not a Business Day), when business next starts in the place of receipt.

16.8.3 Despite Clause 16.8.2:-

- (a) a facsimile is not treated as given or received unless at the end of the transmission the sender's facsimile machine issues a report confirming the transmission of the number of pages in the notice;
- (b) an electronic mail message is not treated as given or received if the sender's computer reports that the message has not been delivered; and
- (c) a facsimile or electronic mail message is not treated as given or received if it is not received in full and in legible form and the addressee notifies the sender that it has not been received in full or in legible form within 3 hours after the transmission ends or by 12 noon on the Business Day on which it would otherwise be treated as given and received, whichever is later.

16.8.4 The address for the service of notice on the Operator is as follows:-

Attention: Richard Shepherd-Cross  
 Address: MW House  
 1 Penman Way,  
 Grove Park, Enderby  
 Leicester, LE19 1SY  
 Facsimile number: 0116 240 8749  
 Electronic mail address: rsc@custodiancapital.com

16.8.5 The address for the service of notice on the General Partner is as follows:-

Attention: The Directors  
 Address: MW House  
 1 Penman Way,  
 Grove Park, Enderby  
 Leicester, LE19 1SY  
 Facsimile number: 0116 240 8749  
 Electronic mail addresses: katie.lane@custodiancapital.com

16.9 **Third Party Claims**

No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

16.10 **Force Majeure**

No party shall be responsible for any failure to fulfil its duties under this Agreement if the same is either directly or indirectly caused by or due to matters outside the reasonable control of the party concerned (including but not limited to war, civil commotion, terrorism, storm, fire, industrial action, failure of computer or information systems, act of Government or other competent authority or suspension of markets).

16.11 **Counterparts**

This Agreement may be executed in any number of counterparts and by each of the parties on separate counterparts each of which when executed and delivered shall be deemed to be an original, but all the counterparts together shall constitute one and the same agreement provided

however that this Agreement shall not be effective until each party has executed at least one counterpart.

**16.12 Costs and Value Added Tax**

16.12.1 Unless expressly otherwise provided in this Agreement or the Partnership Agreement or otherwise agreed by the parties, each party shall pay its own costs and expenses in relation to the preparation, negotiation, execution and implementation of this Agreement each of each document referred to in this Agreement.

16.12.2 All references to payments made in this Agreement are references to such payments exclusive of Value Added Tax. For the avoidance of doubt, where any supply of goods and/or services is made or deemed to be made pursuant to this Agreement the recipient of the supply shall against provision of a proper tax invoice pay to the supplier the amount of any Value Added Tax chargeable in respect thereof.

16.12.3 Where under the terms of this Agreement any cost or expense is to be reimbursed refunded or taken into account in any computation that cost or expense shall be taken net of any Value Added Tax comprised therein to the extent that the party by whom the cost or expense was incurred is able to recover such Value Added Tax as input tax.

**16.13 Severability**

If any Clause in this Agreement (or part of any such Clause) is found by any court of competent authority to be invalid, illegal or unenforceable, that Clause or part of that Clause shall, to the extent required, be deemed not to form part of this Agreement and the validity and enforceability of the other Clauses of this Agreement shall not be effected.

**16.14 Survival**

The rights and obligations arising under any clause which is expressed to survive, or from its context or operation is intended to survive, the termination of this Agreement shall so survive.

**17. Governing Law**

This Agreement and any non-contractual obligations arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with English law. The parties hereby submit to the exclusive jurisdiction of the High Court of England and Wales in relation to any dispute or claim arising out of or in connection with this Agreement or in relation to its existence or validity (including non-contractual obligations).

**AS WITNESS** whereof this Agreement has been entered into on the day and year first above written.

## SCHEDULE 1

### THE OPERATOR SERVICES

The services to be provided by the Operator under this Agreement shall include, but shall not be limited to, the following:-

1. to discharge or procure the discharge of all operational and all and any other functions in relation to the Partnership which under the provisions of the FSMA may not be carried out by a person who is neither authorised nor exempt as defined in sections 31 and 38, respectively, of the FSMA.
2. to communicate financial promotions in relation to the Partnership and to identify and enter into distribution agreements with appropriately FSA authorised firms with a view to those firms marketing the Partnership and where necessary deduct from the Partnership's account any commissions to be paid to such FSA authorised firms.
3. to execute and perform any and all contracts, deeds and cheques, mandates, instruments or documents which the Operator is required to execute or perform in connection with the its duties set out herein.
4. to manage the Property.
5. to oversee any activities performed by the General Partner and other parties and ensure that the business of the Partnership is managed in a way that is consistent with this Agreement.
6. to carry out money laundering verification and customer due diligence, admit and register new Limited Partners and approve (and agree changes to) Deeds of Adherence, instruments transferring any interest in the Partnership and related documentation from Limited Partners.
7. to admit Limited Partners to the Partnership in accordance with the Partnership Agreement.
8. to approve the calculation and make distributions to the Partners in accordance with the Partnership Agreement.
9. to effect transfers of limited partnership interests in the Partnership in accordance with the Partnership Agreement.
10. to make arrangements for the opening, maintaining and closing of bank accounts in the name of the Partnership in the United Kingdom or elsewhere, and to draw cheques and other orders for payment of monies in the name of the Partnership and to execute any other documentation in relation to such accounts and to operate such accounts.
11. to oversee the preparation and distribution of reports to Limited Partners in accordance with the FSA Rules.
12. to report and/or attend at annual general or other extraordinary meetings.
13. to ensure the Partnership maintains compliance with all FSA and FSMA compliance responsibilities and filings.
14. unless otherwise agreed by the Operator and the General Partner to employ (at the Partnership's expense) such agents, investment advisers, employees, managers, accountants, lawyers, consultants and other persons necessary or appropriate to carry out the business of the Partnership in the United Kingdom and to advise the Operator and the General Partner on the terms of all relevant contracts and documents (whether or not any such persons so employed are affiliated or related to any Partner.
15. to prepare and maintain or cause to be prepared and maintained the Partnership's records, accounts and books of account at the Partnership's or (to the extent permitted by the Act) its own principal place of business), to procure that (so far as it is reasonably able to do so) such records and books of account are properly and accurately maintained and at all times up to date and to allow any Limited Partner and the General Partner and their representatives reasonable access thereto at any reasonable time, subject to having to give reasonable notice, for the purpose of inspecting or copying the same, provided that such Partner shall reimburse to the

Operator any expenses reasonably incurred in connection with such inspection and shall pay the Operator's reasonable charges with respect to such copying.

16. to report to the Partnership on all matters pertaining to the Partnership's Investment, in order to enable the Partnership to meet its obligations under the Partnership Agreement. The Operator will be obliged to provide such further information and explanation to the Partnership (or its appointed representative) and to act in accordance with any instructions given by the Partnership, as is reasonable to enable the Partnership to properly manage its assets and provide appropriate information to its Partners.
17. to register and publish (or cause the General Partner to register and publish) all such notices, statements or other instruments as may be required pursuant to the Limited Partnership Act 1907 (as amended) to be registered and published in relation to any changes occurring in relation to the Partnership as specified in Sections 9 and 10 of the Limited Partnership Act 1907(as amended).
18. to submit all tax returns, claims, forms and other documents to the relevant tax authority on behalf of the Partnership as may be required (but, for the avoidance of doubt, not in respect of individual Partners) and to pay or direct the Partnership to pay all amounts of taxation for which the General Partner, the Operator, any Associate of either of them or the Partnership is liable on behalf of any Partner or the Partnership or any amount of taxation in respect of which any Partner or the Partnership has been assessed in the name of the General Partner, the Operator, such Associate or the Partnership provided that the Operator shall first give notice to such Partner of such liability to taxation and shall use its reasonable endeavours at the expense of such Partner to ensure that the amount assessed is in fact due.
19. to provide such other services as may be necessary in pursuing the purpose of the business of the Partnership.
20. to provide such other services as may be agreed from time to time between the parties.

**SIGNED by CUSTODIAN CAPITAL (101)** )  
**LIMITED PARTNERSHIP** acting by )  
**CUSTODIAN CAPITAL (101) GENERAL** )  
**PARTNER LIMITED**, general partner, acting )  
by a Director:- )

Director

**SIGNED by CUSTODIAN CAPITAL** )  
**LIMITED** acting by a Director:- )  
)  
)  
)

Director