

# Investor Agreement

This Investor Agreement together with the Brochure and the signed Application Form (the “Agreement”) will upon acceptance by the manager constitute a binding agreement between the Applicant and the Manager in relation to the subscription and the service.

## Part A Defined Terms

**Defined terms used in these Terms have the meaning given to them below:**

Adviser Charge	fees agreed between the Applicant and his or her Financial Adviser for providing services related to the Applicant’s investment in the Service.
Applicable Laws	all relevant UK laws and regulations including, for the avoidance of doubt, the FCA Rules.
Applicant or Applicants	an individual who has been notified by the Manager that his/her subscription to the Service has been accepted and so enters into the Agreement and makes Qualifying Investments through the Service.
Application Form	the application form for investment under the Service.
Associate	any person or entity which (directly or indirectly) controls or is controlled by the Manager and/or the Manager’s Connected Persons.
Beringea	Beringea LLP, authorised and regulated by the FCA, acting as the Manager, appointed by the Applicant to manage the Portfolio.
Brochure	the document setting out the investment details published by the Manager in relation to the Service.
Business Relief	business property relief as set out in the Inheritance Tax Act 1984.
Conflicts Policy	the conflicts policy maintained in accordance with the FCA Rules by the Manager, a copy of which is available on request.
Connected Person	a director, shareholder, partner, or employee of the relevant entity.
Custodian	Mainspring Nominees Limited (registered in England and Wales with registration number 08255713 and with its registered address at 44 Southampton Buildings, London WC2A1AP), appointed to provide custodial, settlement and related services in respect of the Portfolio and any replacement custodian that may be appointed by the Manager.
Custodian’s Terms of Business	the terms and conditions set out in the Custody Agreement between the Custodian, the Manager and the Applicant (the Investor for the purposes of the Custody Agreement) upon which the Custodian will have custody of and deal with the Portfolio and/or the Applicant’s cash and the Nominee will hold the Applicant’s Investments, and available at <a href="http://www.proveneps.co.uk">www.proveneps.co.uk</a> .

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Execution Policy	the Manager's policy relating to the execution of orders and decisions to deal on behalf of clients, a copy of which is available on request.
FCA	the Financial Conduct Authority.
FCA Rules	the rules and principles contained in the FCA's Handbook of Rules and Guidance as updated from time to time.
Financial Adviser	a financial adviser who has advised the Applicant in connection with the Service.
General Terms	the terms applicable to the Service set out in Part B of these Terms.
Indemnified Person(s)	the Manager and its Associates and their respective employees, directors, officers or agents.
Inheritance Tax	inheritance tax under the Inheritance Tax Act 1984.
Initial Investment Amount	the initial sum of at least £25,000 which the Applicant is required to invest in the Service under the General Terms.
Initial Period	the period until the second anniversary of an acquisition of a Qualifying Investment.
Investment	any investment acquired for the Portfolio.
Investment Objectives	the investment objectives applying to the Service as set out in clause 5 of the General Terms.
Investment Restrictions	the investment restrictions applying to the Service as set out in clause 5 of the General Terms.
Investor Agreement	this investor agreement entered into between each Applicant and the Manager.
Nominee	MNL Nominees Limited and is registered in England and Wales with registration number 09512864 and registered address at 44 Southampton Buildings, London WC2A1AP. The Nominee is a separate legal entity and a body corporate wholly owned by Mainspring Nominees Limited whose business consists solely of acting as a nominee holder of investments or other property.
Non-Readily Realisable Securities	investments in which the market is limited or could become so, as a result of which the investments can be difficult to deal in and can be difficult to assess what would be a proper market price for them, as defined in the FCA Rules.
Portfolio	the Applicant's portfolio of assets (including, without limitation, uninvested cash), under management in accordance with the Service as described in the Brochure and subject to these Terms.

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Professional Client	has the meaning given in the FCA Rules, being a categorisation prescribed by the FCA which may be applied to certain professional clients (including those Applicants which elect to be treated as Elective Professional Clients) and which does not provide the same levels of protection as afforded to Retail Clients.
Qualifying Investments	investments that, in the opinion of the Manager, should qualify for Business Relief.
Retail Clients	has the meaning given in the FCA Rules, being a categorisation prescribed by the FCA for a client who is neither a Professional Client nor an eligible counterparty and which affords the highest levels of consumer protection in the UK.
the Service	a discretionary portfolio investment management service known as the ProVen Estate Planning Service as described in the Brochure and subject to these Terms.
Subsequent Investment Amount	an amount of at least £10,000 which the Applicant may, in accordance with Clause 3 of the General Terms, invest in the Service after the initial investment has been made.
Termination Date	the date on which this Agreement or the Service terminates pursuant to Clause 17.
Terms	these terms.
Trading Company	a company that, in the opinion of the Manager, satisfies the requirements for Business Relief.

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#### **1. Definitions, construction and interpretation**

- 1.1 Words and expressions defined in either the Brochure, the Application Form or the FCA Rules which are not otherwise defined in this Investor Agreement shall, unless the context otherwise requires, have the same meaning in this Investor Agreement.
- 1.2 Any reference to a statute, statutory instrument or to rules or regulations shall be references to such statute, statutory instrument or rules and regulations as from time to time amended, re-enacted or replaced and to any codification, consolidation, re-enactment or substitution thereof as from time to time in force.
- 1.3 References to the singular only shall include the plural and vice versa.
- 1.4 Unless otherwise indicated, references to Clauses shall be to Clauses in this Investor Agreement and references to a Schedule shall be to a Schedule to this Investor Agreement.
- 1.5 Headings to Clauses are for convenience only and shall not affect the interpretation of the Agreement.

#### **2 Subscribing to the Service**

- 2.1 By signing the Application Form, the Applicant agrees to be bound by the Brochure, the Application Form, these Terms and the Custodian Terms of Business.
- 2.2 The Applicant has accessed the Custodian Terms of Business via [www.proveneps.co.uk/key-documents](http://www.proveneps.co.uk/key-documents) and has read and understood the terms and confirms his/her acceptance to the terms of the Custodian Terms of Business.
- 2.3 The Custodian Terms of Business will become applicable to the Applicant upon execution of the Application Form.
- 2.4 The Applicant hereby appoints the Manager to manage the Portfolio in accordance with the Brochure and these Terms and the Manager accepts such appointment.
- 2.5 The Manager will categorise all private investors as Retail Clients by default. The Applicant may request a different client categorisation but the Manager may reject such a request as the Applicant will lose protections afforded to Retail Clients under the FCA Rules.
- 2.6 The Applicant confirms that he/she is an experienced investor in small to medium-sized, higher risk, unquoted companies and/or is suitably knowledgeable of the risks associated with Non-Readily Realisable Securities and/or has been advised by a Financial Adviser that the Service is suitable for the needs and objectives of the Applicant in the light of these risks.
- 2.7 The Applicant confirms that he/she is not seeking advice from the Manager on the merits of entering into the Agreement, any investment through the Service or in relation to his/her tax affairs.
- 2.8 The Applicant agrees that the Manager may hold information about him/her and his/her affairs in order to verify his/her identity and financial standing (among other things, the Manager may consult a credit or mutual reference agency which may retain a record of the enquiry), to guide investment allocation choices and also for marketing other investment products.

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- 2.9 Anti-money laundering regulations aim to prevent criminal property being used or disguised as legitimate wealth. To satisfy these regulations the Applicant may have to produce satisfactory evidence of his/her identity before the Manager can do business with him/her, and from time to time thereafter. This identification process is designed to assist in the prevention of crime within the financial services industry. If the Applicant does not provide the information when requested, the Manager may be unable to accept any instructions from him/her or provide him/her with any services.
- 2.10 If the Applicant becomes aware at any time that the circumstances detailed in the Application Form no longer apply, the Applicant shall immediately inform the Manager (or request that his/ her Financial Adviser informs the Manager) in writing of such change in circumstances.

### **3 Investments**

In respect of the Applicant's Portfolio:

- 3.1 the Applicant shall transfer cash to the Custodian (by electronic means or as may otherwise be agreed with the Manager) in an amount of not less than £25,000 at the same time as submitting his/her Application Form (the "Initial Investment Amount");
- 3.2 the Applicant may, by transferring cash to the Custodian (by electronic means or as may otherwise be agreed with the Manager) at the same time as submitting an Application Form, invest further amounts in the Service of not less than £10,000 (the "Subsequent Investment Amount") and such amounts may be invested in the same or different Trading Companies to the Applicant's Initial Investment Amount, and the applicable fees and return will be calculated on this basis and may be different to those applicable to the Applicant's Initial Investment Amount. Subsequent Investment Amounts will, for Business Relief purposes, be treated as distinct from the Applicant's Initial Investment Amount and the Initial Period relating to any Subsequent Investment Amount will commence by reference to the date on which the Subsequent Investment Amount is invested; and
- 3.3 the Manager intends to invest subscriptions (net of fees) in one or more Trading Companies within 45 days from the date of receipt of an Applicant's Application Form and the Initial Investment Amount or Subsequent Investment Amount by the Custodian pursuant to clauses 3.1 and 3.2.

### **4 Services**

- 4.1 The Manager will manage the Portfolio on the terms set out in these Terms. The Manager will exercise all discretionary powers in relation to the selection of, or exercising rights relating to, Investments made through the Service on these Terms.
- 4.2 Subject to the Investment Objectives, Investment Restrictions and Clauses 5, 6 and 8 of this Investor Agreement, the Manager, normally acting as agent, will have complete discretion over the account of the Applicant (without prior reference to the Applicant) to buy, sell, retain, exchange or otherwise deal in Investments and other assets, make deposits, subscribe to issues and offers for sale and accept placings, underwritings and subunderwritings of any investments, take all routine or day to day decisions, and otherwise act as the Manager judges appropriate in relation to the management of the Portfolio, but subject always to the applicable obligations of and restrictions applicable to the Manager under the FCA Rules.

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- 4.3 The Applicant agrees that the Investment Objectives and Investment Restrictions will not be breached as a result of any events or circumstances outside the reasonable control of the Manager including, but not limited to, changes in the price or value of assets of the Portfolio brought about solely through movements in the market as a result of any Investment ceasing to qualify for Business Relief.

#### 5 Investment objectives and restrictions

##### 5.1 *Investment Objectives*

To offer the Applicant a discretionary management service, providing the Applicant access to a managed portfolio of Trading Companies, which the Manager believes:

- 5.1.1 qualify for Business Relief after the Initial Period; and
- 5.1.2 their core activities and strategy seek to provide a degree of capital preservation and a predictable level of growth; as more fully described in the Brochure.

##### 5.2 *Investment Restrictions*

In carrying out its duties under the Agreement in respect of the Service, regard shall be had, and all reasonable steps taken, to comply with such policies or restrictions as are required in order to attract Business Relief as may be prescribed by HM Revenue & Customs from time to time.

The Manager will not use the Portfolio to invest in units in collective investment schemes, hedge funds, funds of hedge funds, or derivatives of any sort.

**The Applicant should be aware that his/her Portfolio will comprise cash and Non-Readily Realisable Securities. There is a restricted market for such investments and it may therefore be difficult to deal in the Investments or to obtain reliable information about their value.**

- 5.3 In performing its services under the Agreement, the Manager shall have regard to, and shall comply with, the Investment Objectives and the Investment Restrictions.

#### 6 Terms applicable to dealing and execution policy

- 6.1 The Applicant should be aware that the Portfolio will be invested in unlisted securities and that there is generally no relevant market or exchange, and consequent rules and customs, and there will be varying practices for different securities.
- 6.2 Specific instructions from the Applicant in relation to the execution of orders may prevent the Manager from following its Execution Policy in relation to such orders in respect of the elements of execution covered by the instructions. The Applicant acknowledges that the Manager will not ordinarily accept instructions from the Applicant with regard to decisions (other than in relation to the termination of the Agreement pursuant to Clause 17).
- 6.3 The Manager may aggregate allocations and any other transactions in the Applicant's Portfolio with those of other investors (including clients who are not investors through the Service and funds and other entities managed by the

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Manager and its Associates) and of its employees and of Associates and their clients and employees. The Manager will allocate such transactions on a fair and reasonable basis in accordance with requirements of the FCA Rules and the Manager's Conflicts Policy. The Applicant recognises that each individual aggregated transaction may operate to the advantage or disadvantage of the Applicant.

- 6.4 In the event of the Applicant's death, we will manage the Applicant's Portfolio on a 'care and maintenance' basis and no instructions will be accepted in relation to the Applicant's Portfolio until a grant of probate or its equivalent has been issued and a certified copy thereof has been received by the Manager. Thereafter, the Applicant's executor or personal representative may instruct the Manager to deal with the Applicant's assets in accordance with and subject to these Terms and the Custodian's Terms of Business which shall continue to apply.

#### **7 Reports and valuations**

- 7.1 The Manager shall provide the Applicant with a quarterly report in respect of the Portfolio. The Applicant acknowledges that any valuations comprised in such reports may be prepared by the Manager and will be unaudited.
- 7.2 Any statements, reports or information provided by the Manager will state the basis of any valuations of investments provided.

#### **8 Exercise of Portfolio Rights**

- 8.1 Investments will be registered in the name of the Nominee who will hold the Investments as trustee for the Applicant. Therefore, the Applicant acknowledges that their Investments will be registered in the name of the Nominee but will be held on trust by the Nominee and the Applicant will remain the beneficial owner of the Investments. The Custodian and the Nominee will be authorised, on the instruction of the Manager, to exercise all rights attaching to assets held in the Portfolio and to proceed with any of the following without prior reference to the Applicant and, in all cases, in such manner as the Manager shall determine:
- 8.1.1 issue proxy voting instructions or to vote on a show of hands at a meeting in relation to any relevant assets held in the Portfolio, and to execute and bind the Applicant in actions, waivers, consents, covenants and indemnifications related to such voting proxies;
  - 8.1.2 otherwise exercise any conversion or subscription rights attaching to assets (including shares) held within the Portfolio;
  - 8.1.3 proceed in takeover situations, other offers or capital reorganisations concerning assets held within the Portfolio; and/or
  - 8.1.4 undertake any other corporate actions and decisions.
- 8.2 The Applicant acknowledges and agrees that the Manager:
- 8.2.1 may establish guidelines for the exercise of voting of proxies or other rights and may employ the services of a proxy voting service to exercise proxies in accordance with the Manager's guidelines;
  - 8.2.2 may be precluded by the Applicable Laws from exercising or procuring the exercise of any voting rights attaching to certain Investments;

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8.2.3 may, in its discretion, elect not to exercise or procure the exercise of any voting or other rights and, except as may be explicitly provided by the Applicable Laws, the Manager shall not incur any liability to the Applicant by reason of any exercise of, or failure to exercise, any such discretion and shall not incur any liability for any failure arising from an act or omission of a person other than Beringea; and

8.2.4 may not be able to audit the onward transmission of those instructions to any party.

#### **9 Fees and expenses**

9.1 The Applicant shall pay the Manager fees for the services provided under the Agreement, as set out in the section of the Brochure headed "Our charges".

9.2 If Section 4 of the Application Form for advised clients has been completed, the Applicant thereby authorises the Manager to facilitate the payment of initial and on-going Adviser Charges to the Applicant's Financial Adviser on behalf of the Applicant as indicated in that Section. The Applicant acknowledges and agrees that the Manager may request verification from the Financial Adviser and/or the Applicant that any such payments represent due compensation to the Financial Adviser for financial advice given to and received by the Applicant.

9.3 An Investment may be realised in order to discharge an obligation of the Applicant under the Agreement, for example in relation to payment of fees, costs and expenses.

9.4 In relation to accounting to the Applicant for any dividends or other payments from the Portfolio, the Manager may instruct the Custodian to retain an amount or amounts due to the Manager or any other third party (including the Custodian and the Nominee) in respect of any fees, costs and expenses.

9.5 The Manager shall be entitled at any time to instruct the Custodian to retain or make deductions from or set-off amounts or credits which would otherwise be owed to the Applicant (including, without limitation, the proceeds of a sale or receipt of dividends held in accordance with the Agreement and/or Custodian Terms of Business), in order to meet any liabilities which the Applicant and the Manager may have incurred in respect of the Manager or the Custodian or Nominee or which may otherwise have been incurred on behalf of the Applicant under the Agreement or the Custodian Terms of Business.

#### **10 Management obligations**

10.1 The Manager shall devote such time and attention and have all necessary competent personnel and equipment as may be required to enable it to provide the services under the Agreement properly and efficiently, and in compliance with the applicable FCA Rules.

10.2 Except as disclosed in the Brochure and as otherwise provided in this Investor Agreement (for example on early termination or if the Manager determines in good faith that a disposal of an Investment is in the best interests of the Applicant), the Manager shall not take any action the direct result of which would prejudice obtaining Business Relief in relation to any Trading Company. The Applicant acknowledges and agrees that circumstances may arise whereby it may be more efficient to lose the tax relief in order to realise the investment in a Trading Company, including (but not limited to) circumstances where the gain exceeds the tax benefits.



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#### 11 Obligations and Acknowledgments of the Applicant

- 11.1 The Portfolio established by the Agreement (and its investment in accordance with these Terms) is set up on the basis of the declaration made by the Applicant in his/her Application Form which includes the following statement by the Applicant: the Applicant confirms that the information stated in the Application Form in relation to him/her is true and accurate as at the date of this Investor Agreement.
- 11.2 The Applicant must immediately inform the Manager in writing of any change of tax status, a material change in circumstance and any change in the information provided in the Application Form to which Clause 11.1 refers.
- 11.3 The Applicant must provide the Manager with any information which it reasonably requests for the purposes of managing the Service pursuant to these Terms.
- 11.4 By accepting these Terms, the Applicant agrees that:
- 11.4.1 the Custodian has been delegated the provision of administration, nominee and safe custody services, and the Custodian has agreed to provide a custody, safekeeping and administration service for Applicants, and the Nominee to hold the Investments on behalf of the Applicant, and that the Custodian and Nominee have agreed to provide such services on the terms set out in the Custodian's Terms of Business;
  - 11.4.2 he/she is bound by the Custodian Terms of Business;
  - 11.4.3 the Custodian holds the Applicant's cash as client money (as defined in the FCA Handbook) in accordance with the FCA rules on client money (CASS), and accordingly Applicants are afforded the highest level of protection over their cash;
  - 11.4.4 the Custodian will hold the Applicant's money pending investment using a segregated omnibus account which will have trust status and will be kept separate from any money belonging to the Custodian;
  - 11.4.5 the Manager is authorised to give instructions to the Custodian and Nominee and agree any subsequent amendments to the Custodian Terms of Business on the Applicant's behalf, provided that the Manager notifies the Applicant of such amendments in accordance with the FCA rules;
  - 11.4.6 the Custodian, Nominee and the Manager are each authorised to transfer cash and investments from the Applicant's account to meet the respective fees and settlement or other obligations under the Custodian Terms of Business;
  - 11.4.7 the Applicant should not provide information or communications directly to the Custodian or Nominee other than for administrative purposes such as the supply and posting of application forms;
  - 11.4.8 his/her Investments will be registered in the name of the Nominee but will be held on trust by the Nominee and the Applicant will remain the beneficial owner of the Investments; and
  - 11.4.9 if the Manager considers it is in the best interests of the Applicant, the Manager may terminate the appointment of the Custodian and Nominee and appoint a suitable replacement or replacements.

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#### **12 Delegation and assignment**

- 12.1 The Manager may employ agents and consultants, including Associates, to perform any administrative or ancillary services to assist the Manager in performing the services under the Agreement, in which case it will act with due diligence in the selection, use and monitoring of agents but otherwise shall have no liability in respect of such agents.
- 12.2 The Manager may assign the Agreement to any Associate of the Manager, being an appropriately authorised and regulated person, such assignment being effective upon written notice to the Applicant.
- 12.3 The Agreement is personal to the Applicant and the Applicant may not assign it.

#### **13 Material interests and conflicts**

- 13.1 The Manager or its Associates may provide similar services or any other services whatsoever to any other client or potential client and the Manager shall not in any circumstance be required to account to the Applicant for any profits earned in connection therewith. All decisions made by Beringea for Applicants and Investors in the Service will comply with the objectives of the Service and the FCA Rules relating to treating customers fairly.
- 13.2 The Manager has in place a conflicts of interest policy pursuant to the FCA Rules which sets out how it identifies and manages conflicts of interest. More details on conflicts of interest can also be found on page 22 of the Brochure.
- 13.3 The Manager or its Associates may be separately engaged by some of the Trading Companies to advise or assist those companies to raise finance and/or by companies to which loans are made by Trading Companies and certain directors or employees of the Manager or its Associates may be directors or other officers of Trading Companies. The Manager or its Associates may receive a fee from each such Trading Company for its additional services. Part of the Manager's (or relevant Associate's) fee for additional services received from such Trading Companies may therefore be calculated by reference to the amount invested through the Service.

#### **14 Liability**

- 14.1 The Manager will at all times act in good faith and with reasonable care and skill. Nothing in this Clause 14 shall exclude any duty or liability owed to the Applicant under the FCA Rules.
- 14.2 The Manager shall not be liable for any loss to the Applicant arising from any investment decision made in accordance with the Investment Objectives and the Investment Restrictions or for any other action in accordance with the Agreement, except to the extent that such loss is directly due to the gross negligence, wilful default or fraud of the Manager or any of its employees, directors, or officers. In any event, the Manager shall not be liable for any indirect, special or consequential loss (including any loss of profit) or for any losses that arise from any damage to an Applicant's business or reputation.
- 14.3 The Applicant agrees to indemnify the Manager and the Indemnified Persons from and against any and all liabilities, obligations, losses, damages, penalties, actions against the Indemnified Persons, judgments or suits against the Indemnified Persons, proper costs and expenses or disbursements which may be imposed on, incurred by or asserted against the Indemnified Persons in relation to the management of the Service, except to the extent that such indemnity directly relates to the gross negligence, wilful default or fraud of any Indemnified Person.

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- 14.4 The Manager gives no representation or warranty as to the performance, returns, increase in or retention of value or profitability of the Portfolio, which will comprise high risk investments that are Non-Readily Realisable Securities. There is a restricted market for such investments and it may therefore be difficult to sell the Investments or to obtain reliable information about their value. The Applicant should consider the suitability of the Service for him/her carefully and note the risk warnings set out in the Brochure and Clause 19.
- 14.5 If the Custodian or Nominee should fail to deliver any necessary documents or to account for any Investments, the Manager will take all reasonable steps on the Applicant's behalf to recover such documents or Investments or any sums due or compensation in lieu thereof but subject to the Manager's general duty of reasonable care and due diligence, shall not be liable for such failure.
- 14.6 In the event of any failure, interruption or delay in the performance of the Manager's obligations resulting from acts, events or circumstances not reasonably within the Manager's control (including, but not limited to: acts or regulations of any governmental or supranational bodies or authorities; breakdown, failure or malfunction of any telecommunications or computer service or services; epidemic or pandemic; and acts of war, terrorism or civil unrest) the Manager shall not be liable to the Applicant for consequent loss in the value of, or failure to perform investment transactions for the account of, the Portfolio.

#### 15 Withdrawals

- 15.1 The Applicant shall be entitled to request:
- 15.1.1 **distributions:** regular withdrawals from the Service to provide distributions if so indicated on the Application Form, which are available on a six-monthly or annual basis as indicated on the Application Form. Distributions are not guaranteed and are subject to liquidity and Beringea's discretion;
- 15.1.2 **exits (uninvested cash):** a withdrawal from the Service of all or part of the uninvested cash held in his/her Portfolio once in any calendar month at any time by giving not less than 30 days' written notice to the Manager stating the amount the Applicant wishes to withdraw; or
- 15.1.3 **exits (Investments):** a withdrawal from the Service of all or part of the Investments held in his/her Portfolio once in any calendar month at any time by giving not less than 30 days' written notice to the Manager, in which event the Applicant should note that: (i) he/she may lose Business Relief in respect of the Investments held in his/her Portfolio; (ii) it may not be practicable for the Investments to be sold, in which case there may be a delay in completing the withdrawal; (iii) that Investments comprise Non-Readily Realisable Securities and so any withdrawal will be subject to the Manager's discretion and to liquidity (from a timing perspective); and (iv) the Manager has a lien over the Applicant's Investments in respect of damages or accrued but unpaid fees and shall be entitled to dispose of all or any such Investments in order to discharge the Applicant's liability and to pay any balance to the Applicant. In the case of a partial withdrawal, the amount to be withdrawn must exceed £5,000 and the amount that remains invested must be at least £25,000.
- 15.2 Any return of cash or assets pursuant to Clause 15.1 shall be made after the deduction or withholding from such cash or assets of any relevant fees, costs or expenses.
- 15.3 Subject to Clauses 15.1 and 15.2, following receipt of a withdrawal notice, the Manager shall arrange for the transfer of the Applicant's uninvested cash and/or Investments as the Applicant shall direct.

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#### **16 Cancellation**

- 16.1 The Applicant has the right to change his/her mind and cancel the appointment of the Manager under the Agreement within 14 days of being notified by the Manager that the Applicant's Application Form has been accepted. If an Applicant wishes to cancel, the Applicant must notify the Manager in writing of his/her notice of cancellation on or before the 14th calendar day after receipt of notification that his/her Application Form has been accepted. The Applicant will have repaid to him/her within 28 days of receipt by the Manager of the cancellation request, any money the Applicant has paid to the Custodian less the Manager and Custodian's reasonable processing costs.
- 16.2 The Applicant may expressly request that the Manager arrange for an investment to be made within the 14 day cancellation period and, in this event, the Applicant will waive the right to cancel the appointment of the Manager.

#### **17 Termination**

- 17.1 The Applicant may terminate the Agreement by giving 30 days' notice in writing to the Manager.
- 17.2 The Manager may terminate the Agreement on not less than three months' written notice (or such shorter period as the Manager may determine in the circumstances described in Clause 17.3) from the Manager to the Applicant of its intention to terminate its role as Manager under the Agreement.
- 17.3 The Manager will be entitled to terminate the Agreement immediately on notice in writing if:
- 17.3.1 the Applicant has committed a material breach of any provision of the Agreement or the Custodian's Terms of Business and, in the case of a breach capable of remedy, fails to remedy such breach within 30 days of receipt of a written notice giving full particulars of the breach and requiring it to be remedied; or
  - 17.3.2 the Applicant is the subject of a bankruptcy petition or order or proposes an individual voluntary arrangement.

#### **18 Consequences of termination**

- 18.1 Subject to the provisions of Clause 18.2, the Manager will, from the Termination Date manage the Investments in the Applicant's Portfolio on a 'care and maintenance' basis and in accordance with the Applicant's reasonable instructions and the Manager may, at its discretion:
- 18.1.1 realise all Investments in the Applicant's Portfolio in an orderly and expeditious fashion (recognising that an Investment may be a Non-Readily Realisable Security and subject to liquidity constraints) and arrange for the cash proceeds and any remaining unrealized Investments to be transferred to the Applicant or to such other person as the Applicant may reasonably request; or
  - 18.1.2 arrange for the transfer of all Investments into the Applicant's name or to such other person as the Applicant may reasonably request.
- 18.2 Termination will not affect accrued rights, existing commitments or any contractual provision intended to survive termination and will be without penalty or other additional payments save that the Applicant will pay fees, expenses and costs properly incurred by the Manager and the Custodian up to and including the Termination Date and payable under the terms of the Agreement and/or the Custodian's Terms of Business.

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18.3 To the extent that monies have already been invested into Qualifying Investments it may take some time to realise such Qualifying Investments which are Non-Readily Realisable Securities.

18.4 Subject to Clause 18.5, on the realisation of any Investments prior to termination of the Service or the Agreement under this Clause 18, the proceeds of such realisation (whether in cash or securities) will be returned within a reasonable period to the Applicant by the Custodian.

18.5 Any return of cash or Investments pursuant to Clause 18.4 shall be made after the deduction or withholding from such cash or relevant Investments of any relevant fees, costs or expenses.

#### **19 Risk warnings and further disclosures**

19.1 The Applicant's attention is drawn to the 'Risk Factors' set out in the Brochure.

19.2 Unless otherwise expressly agreed, the Manager will not borrow money on behalf of the Applicant, nor lend securities or enter into stock lending or similar transactions. For the avoidance of doubt, the Trading Companies and their affiliates may borrow money or enter into similar transactions.

#### **20 Status of the Manager**

20.1 The Manager is authorised and regulated by the Financial Conduct Authority with Firm Reference Number 496358 and is a Limited Liability Partnership registered in England and Wales under number OC342919 with its registered address at 39 Earlham Street, London WC2H 9LT.

20.2 The FCA's registered address is 12 Endeavour Square, London, E20 1JN.

#### **21 Information contained in the Brochure**

21.1 The Manager has taken all reasonable care to ensure that the facts stated in the Brochure are true and accurate in all material respects and that there are no other facts whose omission would make any statement of fact in the Brochure materially misleading or inaccurate. Certain information contained in the Brochure has been obtained from published sources prepared by third parties. The Manager does not accept or assume any responsibility for the accuracy or completeness of such information. No person has been authorised in connection with the investment opportunity described in the Brochure to give any information or to make any representations other than as contained in the Brochure, and, if given or made, such information or representation must not be relied upon as having been authorised by the Manager.

21.2 All statements of opinion or belief contained in the Brochure and all views expressed and statements made regarding future events represent the Manager's own assessment and interpretation of information available to it as at the date of the Brochure.

21.3 The information contained in the Brochure should not be assumed to have been updated at any time after January 2021 and the provision of the Brochure to the Applicant does not constitute a representation by the Manager that such information will be or has been updated at any time after the date of the Brochure.

#### **22 Confidential information**

22.1 Neither the Manager nor the Applicant shall disclose to third parties information the disclosure of which by it would be or might be a breach of duty or confidence to any other person.

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- 22.2 The Manager will at all times keep confidential all information acquired in consequence of the services provided under the Agreement, except for information which:
- 22.2.1 is in the public knowledge;
  - 22.2.2 it may be entitled or bound to disclose under compulsion of law or applicable regulation;
  - 22.2.3 is requested by regulatory or tax agencies or stock exchange;
  - 22.2.4 is given to its professional advisers where reasonably necessary for the performance of their professional services;
  - 22.2.5 is authorised to be disclosed by the other party; or
  - 22.2.6 it is necessary to disclose in pursuance of the services provided under this Agreement.
- 22.3 The Applicant will at all times keep confidential all information acquired from the Manager or from Trading Companies pursuant to the Agreement except for information which falls within any of the categories set out in Clauses 22.2.1 to 22.2.6 (inclusive).

## 23 Compensation

- 23.1 The Manager and the Custodian (subject to the Custodian's Terms of Business) each participate in the Financial Services Compensation Scheme, established under the Financial Services and Markets Act 2000, which provides compensation to eligible Applicants in the event of a firm being unable to meet its customer liabilities. Payments under the protected investment business scheme are limited to a maximum of £85,000. The Scheme is only available to certain types of claimants and claims. Further information is available from the Financial Services Compensation Scheme, on the website [www.fscs.org.uk](http://www.fscs.org.uk).

## 24 Notices, instructions and communications

- 24.1 Notices and instructions to the Manager should be in writing and signed by the Applicant (or on the Applicant's behalf by a properly authorized and registered power of attorney) and should be sent to Beringea, 39 Earlham Street, London, WC2H 9LT. Any telephone communications to the Manager may be recorded for the avoidance of any subsequent doubt and the Manager will only be obliged to act (or cease to act, as the case may be) upon receipt of subsequent written confirmation of any verbal communications. Communications sent by the Applicant will be deemed received only if actually received by the Manager.
- 24.2 The Manager may rely and act on any instruction or communication which purports to have been given by persons authorised to give instructions by the Applicant under the Application Form or subsequently notified by the Applicant from time to time and unless that relevant party receives written notice to the contrary, whether or not the authority of such person shall have been terminated.
- 24.3 All communications to the Applicant (whether postal or electronic, including by email where the Applicant has provided an email address) shall be sent to the latest address or email address notified by the Applicant to the Manager and shall be deemed to be received by the Applicant on the second day after posting or on the day after dispatch in the case of electronic communication. The Manager will not be liable for any delay or failure of delivery (for whatever reason) of any communication sent to the Applicant.

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24.4 The Manager may provide information, including details of any changes, either in a durable medium or via its website [www.proveneps.co.uk](http://www.proveneps.co.uk).

#### **25 Amendments**

25.1 The Manager may amend the terms in this Investor Agreement by giving the Applicant not less than 30 days' written notice.

25.2 The Manager may amend the terms in this Investor Agreement with immediate effect by giving the Applicant written notice where such amendment is necessary in order to comply with HMRC requirements in order to maintain Business Relief or in order to comply with the FCA Rules.

#### **26 Data protection**

26.1 The information that the Applicant provides on an Application Form or subsequently in other communications or correspondence with the Manager in any form will be held and used in compliance with that data protection legislation which is binding on the Manager. For the purposes of the data protection legislation the Manager will be the data controller.

26.2 The Manager may hold and process the Applicant's data for:

26.2.1 the administration of the Service or investment products for which the Applicant is currently applying or may apply for in future;

26.2.2 for the operation of an investment (including e.g. for registration and distribution purposes); and

26.2.3 for regulatory and legal reasons such as but not limited to anti money laundering and anti-terrorism financing checks and procedures.

26.3 The Manager may transfer the Applicant's data to its Associates, the Custodian, Armstrong Capital Management Limited, the Trading Companies or any other third party involved in the Service for any of the above purposes.

26.4 The legal basis for the Manager processing the Applicant's personal information in the ways described in Clause 26.2 will typically be because the processing is necessary: (i) to fulfil its obligations under the Agreement; (ii) for its legitimate business interests; (iii) for compliance with a legal obligation to which it is subject; or (iv) because the Applicant has provided the Manager with their consent.

26.5 Where a Financial Adviser or other authorised professional person acts on the Applicant's behalf, the Manager shall be entitled to disclose information concerning the Applicant's investment to that Financial Adviser or other professional person unless the Applicant instructs the Manager in writing not to do so. Save as noted above, the Manager will not without good and reasonable cause provide to any other third party any information relating to the Applicant, unless the Applicant has given his/her written consent or unless the Manager is required to do so by law or by a regulatory authority. Such good and reasonable cause would include the disclosure of information where the Manager is selling or buying any Investment, in which case the Manager may provide information (including information concerning the Applicant) to the prospective seller or buyer of such Investment.

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#### **27 Entire agreement**

- 27.1 This Investor Agreement, together with the Application Form and the Brochure, comprise the entire agreement between the Manager and the Applicant relating to the provision of services under the Agreement. The Applicant agrees that he/she has made his/her decision to invest through the Service based only on information contained in the Brochure, this Investor Agreement and the Application Form.

#### **28 Rights of third parties**

- 28.1 Other than Indemnified Persons who have a right to enforce the terms of Clause 14.3, no person who is not a party to the Agreement has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement, but this does not affect any right or remedy of such third party which exists or is available apart from that act.

#### **29 Severability**

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

#### **30 Complaints**

- 30.1 The Manager has established procedures in accordance with the FCA Rules for consideration of complaints. Details of these procedures are available from the Manager on request. Should an Applicant have a complaint, he/she should contact the Manager. The Applicant may be eligible to refer a complaint to the Financial Ombudsman Service. Information and rules relating to the Financial Ombudsman Service can be found on [www.financialombudsman.org.uk](http://www.financialombudsman.org.uk).

#### **31 Governing law**

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