



## The ILPA Model Limited Partnership Agreement (Deal-by-Deal Waterfall)

### Term Sheet Summary of the Model LPA

*This term sheet is a summary of the principal terms of the Model LPA (issued in July 2020) and should be read in conjunction with the Model LPA which shall apply unless expressly varied by this term sheet.*

*This term sheet is for information purposes only, and legal advice should be obtained before implementing the Model LPA or any of its terms. The terms of this term sheet are not exhaustive and are not intended to be legally binding and are subject to the agreement and signing by all relevant parties of a detailed and legally binding limited partnership agreement.*

*Capitalised and undefined terms shall bear the meaning ascribed to them in the Model LPA.*

<b>Fund</b>	[NAME OF FUND], a [NAME OF FUND JURISDICTION]-registered limited partnership. Parallel vehicles controlled by the General Partner may be formed to co-invest with the Fund on substantially the same terms.  Other investment vehicles may be also established in order to meet the specific needs of investors and/or to address specific tax, legal, regulatory or similar considerations.
<b>General Partner</b>	[NAME OF GENERAL PARTNER], a [FORM OF ENTITY], registered in [NAME OF JURISDICTION].
<b>Fund Manager</b>	[NAME OF MANAGER], a [FORM OF ENTITY], registered in [NAME OF JURISDICTION].
<b>Maximum Size</b>	The aggregate Commitments to the Fund and any parallel vehicles shall not exceed [CURRENCY/AMOUNT].
<b>Currency</b>	The currency of the Fund will be [CURRENCY].
<b>General Partner's Commitment</b>	The General Partner and its Affiliates shall make and maintain an aggregate Commitment by subscribing for an Interest equal to at least [•]% of the aggregate Commitments of the Limited Partners.
<b>Initial Closing Date</b>	The initial closing will occur on the date determined by the General Partner when the aggregate Commitments equal or exceed [NUMBER].
<b>Final Closing Date</b>	The Fund shall cease accepting Commitments on the date that is 12 months from the Initial Closing Date.
<b>Subsequent Closings</b>	Additional closings may occur at the discretion of the General Partner. Investors admitted after the Initial Closing Date will be treated as if they had invested in the Fund at the Initial Closing Date and will participate in all of the Fund's investments and will pay their pro rata share of all drawdowns made prior to their admission plus additional payment on such amounts (other than any drawdowns attributable to the management fee) at the rate of [•]% per annum

(subject to appropriate adjustments for investments realised prior to their respective admission to the Fund).

**Term of the Fund**

[10] years from the Initial Closing Date, subject to two one-year extensions by the General Partner and with the prior consent of the Advisory Committee to the first extension and with the prior consent of a Majority in Interest to the second extension.

**Commitment Period**

The period from the Initial Closing Date to the [fifth] anniversary of the Initial Closing Date and subject to a one-year extension by the General Partner with the prior consent of the Advisory Committee.

The Commitment Period may be terminated earlier if all Commitments have been drawn down and invested or used to create Reserves or for the follow-on investments, or by a notice approved by [75]% in Interest.

**Investment Policy**

The objective of the Fund is to provide attractive, long-term investment return by investing in a diversified portfolio of [INVESTMENT POLICY].

**Investment Restrictions**

The Fund shall only make investments if they are consistent with the Investment Policy.

Without the prior written consent of the Advisory Committee, the Fund will not invest:

- (1) [more than [•]% [or [•]% including the aggregate of any Capital Contributions for any Bridge Investments] of the aggregate Commitments in any single portfolio company];
- (2) [more than [•]% [or [•]% including the aggregate of any Capital Contributions for any Bridge Investments] of the aggregate Commitments in any one industry sector];
- (3) [more than [•]%/[or [•]% including the aggregate of any Capital Contributions for any Bridge Investments] of the aggregate Commitments in any group of Portfolio Companies that are Affiliates];
- (4) [in Portfolio Companies outside of the Target Region];
- (5) [in a Follow-On Investment [18 months] after the end of the Commitment Period]/[more than [15]% of aggregate Commitments in Follow-On Investments after the end of the Commitment Period;]
- (6) [in publicly listed securities (save for those in connection with the public offering of an existing Portfolio Company)];
- (7) [in speculative investments];

- (8) [in connection with a hostile bid]; or
- (9) [in any person that charges any fee or profit share].

**ESG**

The Fund will invest in accordance with the General Partner's environmental, social and governance policy.

**Preferred Return**

Such amount as is equal to an annual rate of return of [<sup>[1]</sup>]% compounded annually and calculated daily on the Capital Contributions made a Limited Partner, calculated from the date of receipt of such Capital Contributions by the Fund and accrual of the Preferred Return until the date of distribution or deemed distribution to such Limited Partner.

**Distributions/Waterfall**

Deal-by-deal waterfall.

Distributable Proceeds from any Portfolio Investment shall be initially apportioned among the Partners in proportion to their participation (based on relative Capital Contributions) in that Portfolio Investment. Amounts apportioned to Affiliated Partners will be distributed to that Affiliated Partner.

The amounts apportioned to all other Partners shall be distributed as follows:

- (1) first, 100% to such Partner until such Partner has received cumulative distributions equal to the sum of (without duplication):
  - a. the Capital Contributions of such Partner used to fund the cost of: (i) such Portfolio Investment, (ii) each realized Portfolio Investment (including as a realisation an extraordinary dividend, refinancing, capital restructuring or similar transaction), and (iii) aggregate Unrealized Losses; and
  - b. the Capital Contributions of such Partner used to fund the Fund Expenses (including the Management Fee);
- (2) second, 100% to such Partner until the cumulative amount distributed to such Partner hereunder is equal to the Preferred Return for such Partner;
- (3) third, either (i) [80]% to the General Partner and [20]% to such Partner, or (ii) 100% to such Partner, as appropriate until the cumulative distributions received by the General Partner with respect to such Partner hereunder equal to [20]% of the excess of (x) the cumulative amount of distributions made or being made to such Partner and to the General Partner with respect to

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<sup>[1]</sup> If the Fund utilises a subscription line of credit, the preferred return should be calculated from the date on which the subscription line of credit was drawn. Please refer to ILPA's Subscription Lines of Credit and Alignment of Interest: Considerations and Best Practices for Limited and General Partners: <https://ilpa.org/wp-content/uploads/2017/06/ILPA-Subscription-Lines-of-Credit-and-Alignment-of-Interests-June-2017.pdf>

such Partner hereunder over (y) the Capital Contributions of such Partner as described at step (1) above; and

- (4) fourth, thereafter, (x) [20]% to the General Partner and (y) [80]% to such Partner.

**[Escrow]**

[The General Partner shall deposit [30]% of all amounts that would otherwise be distributed to the General Partner as Carried Interest with respect to each Partner into a separate account of the Fund until such time as such applicable Partner has received aggregate distributions equal to its Commitment and any Preferred Return calculated on the aggregate Capital Contributions made by such Partner.]

**Carried Interest Undertaking**

The General Partner shall ensure that each partner of the General Partner who is entitled to receive Carried Interest shall have entered into an undertaking in favour of the Fund and for the benefit of the Limited Partners to return its pro rata share of any contribution that the General Partner may be due to return to the Fund, should there be any excess payment of Carried Interest to the General Partner and the General Partner has insufficient funds or fails to meet its return obligation.

**Distributions in Kind**

Only cash or marketable securities may be distributed prior to the final distribution following the dissolution and winding up of the Fund.

If a Limited Partner elects not to receive distributions of marketable securities, the General Partner shall use commercially reasonable efforts to sell any securities that would otherwise have been distributed to such Limited Partner for cash.

**Drawdowns**

Notice of a drawdown to be given no less than 10 business days before it is due and specifying in reasonable detail the purposes of such drawdown consistent with the requirements of the ILPA Capital Call and Distribution Notice Template,

**Reinvestment**

In respect of each Limited Partner, the amount available for drawdown shall be increased by the aggregate amount of proceeds distributed to such Limited Partner that equals the amount of Capital Contributions of such Limited Partner used to fund the acquisition cost of Portfolio Investments realized within [twelve (12)] months of their acquisition, plus Fund Expenses, Management Fees and Organizational Expenses provided that such increased amount shall be only used for the purpose of making Portfolio Investments.

**Bridge Investments**

The Fund may provide interim financing to, or make investments that are intended to be of a temporary nature in securities of, any Portfolio Company in connection with a Portfolio Investment by the Fund in such company (each a “**Bridge Investment**”).

If a Bridge Investment is not repaid, refinanced or otherwise disposed of prior to [(12)] months from the acquisition date, it shall cease to be treated as a Bridge Investment on the lapse of such [(12)] month period and shall be treated as a permanent Portfolio Investment beginning on the date of acquisition of such Bridge Investment.

### **Borrowing and Guarantees**

The Fund may not borrow amounts, issue guarantees or otherwise incur indebtedness except on a short-term basis for periods of less than six months to finance investments pending receipt by the Fund of drawdowns.

The aggregate liability of the Fund with respect to all borrowing, guarantees and indebtedness shall not exceed the lesser of (A) [15]% of the total Commitments and (B) the aggregate amount of Remaining Commitments.

[Subject to the foregoing, the Fund Manager or the General Partner may establish a credit facility for the Fund with one or more financial institutions, pursuant to which the Fund's obligations are secured by a pledge or other grant of a security interest and the assignment by the General Partner to the relevant lender of the rights of the General Partner to deliver drawdown notices to the Limited Partners and to enforce all remedies against Limited Partners that fail to fund their respective Remaining Commitments.]

### **Management Fee**

The Management Fee is payable from the date the Fund acquires its first Portfolio Investment (other than a Temporary Investment) to the earlier of the last day of the initial term of the Fund and the appointment of a liquidator other than the General Partner.

Until the termination of the Commitment Period or, if earlier, when a management fee begins to accrue in respect of a Successor Fund, the Management Fee will be [•]% per annum of the Commitment of each Limited Partner.

Thereafter (and during any period of suspension of investments), the Management Fee will be [•]% per annum of the Capital Contributions made by such Limited Partner to fund the Acquisition Cost of Portfolio Investments (other than Temporary Investments), less an amount equal to the Acquisition Cost of Portfolio Investments (other than Temporary Investments) that have been realized (in whole or in part), written off, or permanently written down to below [•]% of its original Acquisition Cost as of the end of the most recent financial quarter.

Management Fee is payable in quarterly instalments in advance.

### **Management Fee Offset**

Each quarterly Management Fee instalment shall be reduced (but not below zero) by an amount equal to each Limited Partner's pro rata share of the aggregate amount of Fee Income paid since the preceding payment date. Any excess of Fee Income will roll forward and reduce

succeeding Management Fee instalments. Any Fee Income not used to reduce the Management Fee and remaining on the termination of the Fund will be distributed to the non-defaulting Limited Partners in proportion to their Commitments.

**Suspension of Investments**

Upon the occurrence of a Key Person Event or if the General Partner receives a notice approved by [•]% in Interest, the Commitment Period shall be automatically suspended and no drawdown notices may be issued without Advisory Committee consent other than to pay Fund Expenses, complete investments the Fund is legally bound to complete, and repay indebtedness and satisfy liabilities of the Fund incurred prior to such suspension.

**Key Person Event**

[•], [•], and [•] shall each be deemed to be Key Persons.

Key Person Event occurs if (i) during the Commitment Period [NAMES OF KEY PEOPLE OR HOW MANY OF THEM] cease to devote substantially all their business time and attention to the affairs of the Fund, the Fund Manager, the General Partner, [any Prior Fund], and any alternative and parallel vehicles, or (ii) there is a Change of Control.

“**Change of Control**” means any conduct that results in (i) the Key Persons ceasing to control the General Partner and the Fund Manager, or (ii) the Key Persons together being legally and beneficially entitled to less than [75]% of the Carried Interest. The General Partner shall promptly notify the Limited Partners of any transfers by any of the Key Persons of their control of the General Partner or the Fund Manager or of any portion of their entitlement to the Carried Interest.

The suspension will last until a Majority in Interest either (i) approves in writing a remediation plan for the Key Person Event; or (ii) waives the suspension either generally or with respect to one or more specified investments. If no such approval or waiver is given within [90 days] of the beginning of the suspension, the Commitment Period will immediately terminate.

**Early Termination of the Fund**

The Fund may be terminated early if the Limited Partners elect to terminate the Fund in a removal notice (for cause or without) (see below, *Removal of the General Partner*); upon an event of withdrawal with respect to the General Partner; or by a decree of judicial dissolution.

**Removal of the General Partner for Cause**

The General Partner shall notify the Limited Partners immediately upon the occurrence of any Removal Conduct. After [a court has confirmed that] Removal Conduct has occurred, the Limited Partners by written notice approved by a Majority in Interest may elect to either terminate the Fund early or remove the General Partner.

“**Removal Conduct**” with respect to the General Partner, the Fund Manager, any of the Key Persons and any of their respective Affiliates

means any conduct or lack thereof amounting to: fraud, bad faith or wilful misconduct; gross negligence or reckless disregard in relation to activities of the Fund; material breach of the Partnership Agreement or breach of the standard of care; material violation of securities, commodities, AML/OFAC or corrupt practice laws, rules or regulations in relation to the activities of the Fund; criminal conduct; any order, judgment or decree of any court, arbitral tribunal or regulatory authority which prohibits, prevents or materially impairs such Person from carrying on its duties or performing its obligations with respect to the Fund; and with respect to the General Partner and the Fund Manager only: insolvency, administration, dissolution, liquidation, involuntary reorganization, bankruptcy or suspension of payments.

Upon the removal or termination of the Fund for Removal Conduct, the General Partner will not to be entitled to receive further carried interest distributions [and any amounts thereof retained in escrow will be distributed to the Limited Partners]. In respect of its Commitment, the removed General Partner shall be treated as a Limited Partner and it and the Affiliated Partners shall not be obliged to invest in new Portfolio Investments, should the Investors elect to appoint a new general partner and continue the Fund.

**Removal of the General Partner Without Cause**

The Limited Partners may at any time remove and replace the General Partner or terminate the Fund by written notice approved by at least 75% in Interest.

Upon such removal or termination of the Fund, the General Partner shall be entitled to receive further distributions of Carried Interest [immediately and automatically reduced to [•]% of the Carried Interest to which it is otherwise entitled] with respect to Portfolio Investments made prior to such removal (but not with respect to any Portfolio Investment made thereafter). In respect of its Commitment, the removed General Partner shall be treated as a Limited Partner and it and the Affiliated Partners shall not be obliged to invest in new Portfolio Investments, should the Investors elect to appoint a new general partner and continue the Fund.

**Appointment of Replacement General Partner**

A Majority in Interest may approve the appointment of a replacement general partner following the removal of the General Partner for cause or without cause.

**General Partner Clawbacks**

*Final Clawback*

If, upon the liquidation and the final distribution of the Fund, or any re-advance of any amounts pursuant to the Limited Partner Giveback after the liquidation of the Fund and final distribution to the Partners:

- (1) the General Partner has received cumulative distributions in excess of the amount of Carried Interest distributions that it should have received; or
- (2) any Limited Partner has received distributions less than the sum of that such Limited Partner's Capital Contributions and the Preferred Return thereon,

then within 10 Business Days of such occurrence the General Partner must notify the Limited Partners of this in writing and contribute to the Fund [(firstly out of the escrow account)] the lesser of:

- (3) the greater of: (A) the amount of excess distributions received, and (B) the amount of the Limited Partner's distribution shortfall; and
- (4) the amount of distributions of Carried Interest received and attributable to such Limited Partner, less the sum of any taxes paid or payable by the General Partner (or its owners) thereon.

#### *Interim Clawback*

If upon any of: the first anniversary of the end of the Commitment Period and [every year] thereafter, the date of the General Partner's removal, or any re-advance of any amounts pursuant to the Limited Partner Giveback, the General Partner has received distributions of Carried Interest, the General Partner shall calculate an amount, if any, that it would be obligated to contribute to the Fund as if the Fund had made a hypothetical final distribution of its assets on such clawback date by reference to the Value thereon as determined by the General Partner.

If there are any amounts that may be required to be returned to the Fund, the General Partner will contribute them thereto (firstly out of the escrow account) within ten Business Days of such clawback date (but not more than the amount of distributions of Carried Interest received, less any taxes actually paid or payable by the General Partner (or its direct or indirect owners) thereon). The General Partner shall then cause the Fund to distribute any amount so contributed to the relevant Limited Partner.

#### **Limited Partner Giveback**

The Fund may require the Partners to return distributions to the Fund to the extent not previously returned in an amount sufficient to satisfy all or any portion of the indemnification and other obligations of the Fund, whether such obligations or liabilities arise before or after the last day of the term of the Fund or, with respect to any Partner, before or after such Partner's withdrawal from the Fund.

Each Limited Partner's aggregate liability under the giveback is limited to an amount equal to the lesser of: (i) [30]% of all



distributions received by such Limited Partner from the Fund; and (ii) [25]% of such Limited Partner's Commitment.

No Limited Partner shall be required to return to the Fund any amount distributed by the Fund to such Limited Partner after the earlier of: (i) the second anniversary of such distribution (unless notified by the General Partner that there are ongoing proceedings against the Fund); and (ii) the second anniversary of the end of the term of the Fund.

**Standard of Care**

Each of the General Partner and the Fund Manager shall manage and control the Fund and its business and affairs reasonably and in good faith and with care that an ordinarily prudent person in a like position would exercise under similar circumstances. When exercising any discretion neither of the General Partner nor the Fund Manager shall place its interests or those of its Affiliates ahead of those of the Fund of the Investors.

**Exclusivity**

Until the end of the Commitment Period, all investment opportunities received by any of the General Partner, the Fund Manager, any of the Key Persons or any Affiliate of any of the foregoing, will first be allocated to the Fund or, when permitted, to a Successor Fund to the extent that (i) such investment opportunities fall within the Investment Objectives, (ii) the Fund has available undrawn commitment, and (iii) the participation by the Fund in such investment opportunity would be in the best interests of the Fund as determined in good faith by the General Partner.

**Co-investment Opportunities**

The Fund Manager may provide co-investment opportunities to electing Investors [and/or [strategic] third parties] in accordance with the General Partner's co-investment policy.

**Successor Funds**

Unless with the prior consent of a Majority in Interest, the General Partner and the Fund Manager will not accrue management or advisory fees in relation to a vehicle with investment objectives that materially overlap with those of the Fund before the earlier of:

- (1) the termination of the Commitment Period;
- (2) the date when 80% of Commitments have been funded, invested or committed or reserved for investment;
- (3) the date when 60% of Commitments have been used for investment; and
- (4) the termination of the Fund.

**Conflicts of Interest**

The General Partner and the Fund Manager shall not (and shall ensure the Fund does not) directly or indirectly knowingly undertake any conduct constituting an actual or potential conflict of interest between (i) the Fund, any Portfolio Investment or any Portfolio Company on the one hand, and (ii) any Interested Person on the other hand

(including the Fund directly or indirectly entering into any investment, divestment or other business transaction with any Interested Person whether or not on arm's length terms and conditions) without the prior written consent of the Advisory Committee.

Each of the General Partner and the Fund Manager must disclose all actual or material potential conflicts of interest of which it is aware to the Advisory Committee.

**Organisational Expenses** The Fund shall pay or reimburse the General Partner and its Affiliates for their pro rata share of all fees and expenses reasonably and properly incurred by any of them in connection with the formation of the Fund, including travel, meals and lodging (but not including entertainment expenses or the costs of private air travel) related thereto and the costs of compliance with the “*most favoured nation*” process, and excluding the fees and expenses of any placement agent, up to the lower of [•]% of aggregate Commitments and [•].

**Fund Expenses** The Fund shall pay all of the Fund's pro rata share of the reasonable and properly incurred costs and expenses of the Fund (other than the General Partner Expenses) in each case to the extent not reimbursed by a Portfolio Company as follows:

- (1) liquidation expenses of the Fund;
- (2) sales, withholding, or other taxes, fees or similar government charges which may be assessed against the Fund;
- (3) commissions, brokerage fees or similar charges incurred in connection with the purchase or sale of securities;
- (4) costs and expenses of meeting with investors and of the Advisory Committee;
- (5) expenses associated with preparation of the Fund's financial statements, tax returns and Internal Revenue Service Forms;
- (6) all fees, costs and expenses (including attorneys' fees) relating to litigation and threatened litigation, investigation or other proceeding involving the Fund or any Portfolio Investment, including indemnification expenses;
- (7) interest expense for credit facilities;
- (8) fees, cost and expenses incurred in connection with the investigation, diligence, acquisition, holding, monitoring of Portfolio Investments, including broken deal expenses to the extent not borne by the co-investors;
- (9) the Management Fee; and

(10) Organizational Expenses up to the cap.

**General Partner Expenses**

The General Partner agrees to assume and pay, or to cause one or more of its Affiliates to assume and pay, all normal operating expenses attributable to the Fund's investment activities, including, without limitation:

- (1) all routine, recurring expenses incident to the activities of the General Partner or the Fund Manager on behalf of the Fund;
- (2) compensation and benefits of the officers and employees of the General Partner, the Fund Manager and their respective Affiliates;
- (3) clerical, legal, accounting and support services performed by employees of the General Partner, the Fund Manager and or their Affiliates;
- (4) any and all expenses incurred in maintaining the General Partner's or the Fund Manager's registration as an investment adviser;
- (5) fees and expenses of the Fund's and General Partner's registered agent and for maintaining the Fund's and General Partner's registered office';
- (6) costs and expenses of entertainment, including speaker fees, incurred in connection with conferences or meetings;
- (7) office space, furniture, computers, telephones, facilities, utilities, and communications; and
- (h) all costs of remedying an Exculpation Exclusion Event, Indemnification Exclusion Event or Removal Conduct and any taxes or other expenses incurred by the Fund or the General Partner or any of its Affiliates in respect of Carried Interest.

**Limited Partner Transfers**

The Limited Partners wishing to transfer their interest in the Fund will require the prior written consent of the General Partner which shall not to be unreasonably withheld where the transfer is to an Affiliate of the transferor; or certain conditions as specified in the Partnership Agreement are met, including an undertaking to pay all of the Fund's and General Partner's expenses relating to the transfer, and the transfer not causing the Fund to become subject to any laws, regulations or taxation to which the Fund, the General Partner or such Limited Partner is not subject but for such Transfer.

**General Partner Transfer**

The General Partner may not transfer any of its interest in the Fund without the prior written consent of 85% in Interest.

## **Excused Limited Partners**

A Limited Partner may be excused from its obligation to make Capital Contributions or fund any amount from Distributable Proceeds in respect of a Portfolio Investment if:

- (1) the Limited Partner delivers to the General Partner a written notice within 5 Business Days of the relevant drawdown notice stating that the it is entitled to be excused based on its reasonable determination that the making of all or a portion of the relevant investment is reasonably likely to have a material adverse effect on such Limited Partner;
- (2) the General Partner reasonably determines that (i) such Limited Partner's making a Capital Contribution with respect to all or a portion of the relevant Investment is reasonably likely to have a material adverse effect, or (ii) the participation of such Limited Partner in all or a portion of the relevant Investment would (A) prevent the Fund from being able to consummate such Investment, (B) result in a material increase in the risk or difficulty to the Fund of consummating such Investment, (C) impose any material filing, tax, regulatory or other similar burden to which the Fund, a Portfolio Company or any Partner or its Affiliate would not otherwise be subject or (D) would otherwise cause the Fund to incur a material extraordinary expense.

If an Limited Partner does not participate in a particular Portfolio Investment, the General Partner may elect to cause the Fund to make the Portfolio Investment and may issue a revised drawdown notice to the other Limited Partners in order to increase the Capital Contributions with respect to such Portfolio Investment from such other Limited Partners in proportion to their Remaining Commitments to the extent necessary to fund the excused amount. The remaining Limited Partners will not be required to contribute an additional amount that exceeds the lesser of that Limited Partner's Remaining Commitment and [50]% of the total Capital Contributions that such Limited Partner was originally required to make.

## **Defaulting Partners**

If any Partner fails to make all or any portion of any Capital Contribution or any other amount required to be funded by such Partner, the General Partner will notify them in writing thereof and if the default is not remedied within [5] business days of receipt of such notice, the Partner will be designated a Defaulting Partner. All Limited Partners will be notified of any default within [30 days] of such Partner becoming a Defaulting Partner.

Any amounts that are not duly paid on the relevant due date shall accrue interest at a rate of [10]% per annum from the Due Date until the date the Defaulting Limited Partner makes the Capital Contribution.

The General Partner in its sole discretion pursue and enforce any and all rights and remedies the Fund, the General Partner or the Fund Manager may have against such Defaulting Partner at law, in equity or pursuant to the Partnership Agreement, including forfeiting up to 100% of its Interest in the Fund without payment or other consideration.

### **Advisory Committee**

The General Partner will establish an advisory committee of the Fund no later than by the Final Closing Date comprising of between [three] and [seven] members, who shall be representatives of Limited Partners (other than the Fund Manager, Key Persons, and their respective Affiliates) and appointed by the Fund Manager. The Advisory Committee will be invited by the General Partner to meet at least once a year and may be called to meet at any time by any Limited Partner who has a representative on member on the Advisory Committee.

Members of the Advisory Committee will cease being such members should the Limited Partner that such person represents become a Defaulting Investor or transfer its entire Commitment or otherwise withdraw from the Fund.

The Advisory Committee shall provide such advice and opinions to the General Partner as requested by the General Partner, as required under the Partnership Agreement (including on conflicts of interest), or as the Advisory Committee may choose to provide. The members of the Advisory Committee shall not take part in the management of the Fund's business. Decisions will be made by majority vote.

The Advisory Committee shall be entitled to appoint professional advisors at the expense of the Fund.

### **Meetings of the Fund**

The Fund shall have a meeting of Partners at least once each year beginning in the year after the year of the Initial Closing Date. The General Partner shall call additional meetings upon receipt of request to do so approved by Investors representing at least [20]% of Commitments.

The General Partner shall give at least 60 days' advance written notice of any meeting to the Investors, together with a copy of the agenda therefor. A copy of the minutes and any materials distributed at the meeting will be made available to all Investors within [30] days after the meeting.

### **Confidentiality**

Investors will be subject to obligations of confidentiality in relation to the affairs of the Fund and its investments however they can disclose any such information to any other Investor or representative thereof; as may be required by any law, order, or regulations; in

connection with an audit or examination by any governmental or regulatory authority; and to its employees and professional advisers.

## **Indemnification**

The General Partner, the Fund Manager, their respective Affiliates, partners, members, employees and directors and officers will be indemnified out of the Fund's assets against any claims made by third parties and incurred by reason of their activities on behalf of the Fund except in respect of matters resulting from their fraud, bad faith, or wilful misconduct, gross negligence or reckless disregard, a breach of any terms of the Partnership Agreement, a violation of any laws or its bankruptcy or insolvency.

Any Advisory Committee member will be similarly indemnified other than with respect of actions or inactions found by a court to be based upon the bad faith of such member.

## **Reporting**

The General Partner shall keep at the address of the Fund, the Register and full and accurate accounts of the transactions of the Funds until the final liquidation of the Fund and for at least seven years thereafter.

The books, accounts and records of the Fund as of the end of each fiscal year shall be audited by the auditor.

Within 90 days of the end of each Fiscal Year the General Partner will provide to Limited Partners a financial report audited by the Auditor as of the end of such Fiscal Year, prepared in compliance with GAAP, which shall include, among other things, (i) the audited financial statements of the Fund, (ii) confirmation that the amounts of Management Fee and Carried Interest that have been distributed, the amount of Carried Interest retained in the escrow account and the amounts of any Fee Income applied to reduce the Management Fee in accordance with the Management Fee offset are correct, and (iii) each Limited Partner's closing capital account balance as of the end of such Fiscal Year.

Within 45 days of the end of each calendar quarter (commencing with the first full calendar quarter after the date of the first Drawdown) the General Partner will provide to Limited Partners, an unaudited report as of the end of such quarter made up in compliance with GAAP.

The General Partner will also provide to each Limited Partner, together with the financial reports:

- (1) descriptive investment information with respect to each Portfolio Company;
- (2) the results of operations of each Portfolio Company;

- (3) any reporting on environmental, social and governance risks and opportunities in the Fund as deemed appropriate by the General Partner or as requested by such Limited Partner;
- (4) a report of the total debt and credit in use by the Fund; and
- (5) a report on the status and performance of the Fund and each of the Portfolio Investments containing a confirmation of (i) the aggregate amount of the unreturned Capital Contribution, and (ii) the Remaining Commitment, of such Limited Partner.

### **Side Letters**

The General Partner shall provide notice to each Limited Partner of the terms of all Side Letters reasonably promptly following the Final Closing Date and, if any such Side Letter grants more favourable rights to any Partner than those provided to another Partner, each such other Partner shall have the benefit of the more favourable rights, except:

- (1) any rights granted solely with respect to a particular regulatory, legal or tax situation or policy (including any internal policy of a Partner that has been disclosed to the General Partner in writing at or prior to the date of such Partner's subscription to the Fund) applicable to a Partner but not applicable to such other Partner,
- (2) any consent to, or limitation of the General Partner's discretion with respect to, transfers in favour of Affiliates of the recipient of such Side Letter,
- (3) any excuse rights; and
- (4) any right to nominate a representative on the Advisory Committee.

The terms of the side letters shall be binding on the General Partner and the Fund Manager and in case of conflict shall prevail with respect to each Investor that has entered such side letter over the terms of the Partnership Agreement or Subscription Agreement.