

# NON-DISCLOSURE AGREEMENT



Dated ..... (DD-MM-YYYY)

Between

..... ("**the Fund Manager**") and

..... ("**the Recipient**").

## BACKGROUND

(A) The Recipient has expressed an interest in investing in [the proposed fund]

..... ("**the Fund**") on behalf of itself or a third party.

(B) For the purpose of evaluating the Fund ("**the Purpose**") the Fund Manager will disclose Confidential Information to the Recipient, which is to be kept strictly confidential.

## IT IS AGREED

### 1 DEFINITIONS

1.1 "**Confidential Information**" means all information and/or data disclosed in connection with the Fund or the Fund Manager or their activities at any time and in whatever form, whether or not that information is marked confidential.

1.2 "**Representatives**" means directors, officers, employees, clients, agents and professional advisers of the Recipient including the directors, officers, employees, clients, agents and professional advisers of such Representatives affiliates.

### 2 RECIPIENT'S OBLIGATIONS

In consideration of the Confidential Information supplied to it, the Recipient shall:

2.1 not disclose the Confidential Information to any person or entity other than:

2.1.1 the Representatives who have a need to know the Confidential Information in connection with the Purpose; and/or

2.1.2 other investors or potential investors who have signed a non-disclosure agreement (in the same form as this agreement) in respect of the Fund and the Fund Manager,

except with the written consent of the Fund Manager;

2.2 only use the Confidential Information for the Purposes and not use it for the benefit of its business;

2.3 maintain reasonable procedures to safeguard the Confidential Information from loss, unauthorised disclosure or use;

2.4 ensure that each Representative to whom the Confidential Information is made available is fully aware in advance of the Recipient's obligations under this agreement and procure that each Representative complies with the terms of this agreement;

2.5 keep a record of the names of the Representatives who have access to the Confidential Information and promptly supply to the Fund Manager a copy of the record on request;

2.6 on the Fund Manager's written request, the Recipient shall destroy or return to the Fund Manager the Confidential Information held by it and the Representatives. The Recipient shall to the extent possible, delete all Confidential Information from any electronic system, except to the extent it needs to retain the Confidential Information in compliance with regulatory requirements applicable to it.

### 3 EXCLUSIONS

This agreement does not apply to Confidential Information which is:

3.1 in the public domain other than as a result of disclosure by the Recipient or the Representatives;

3.2 independently developed by the Recipient without the benefit of any Confidential Information of the Fund or the Fund Manager;

3.3 already known to the Recipient from sources that the Recipient reasonably believes are not subject to a confidentiality obligation;

3.4 approved for use or disclosure by the Fund Manager;

3.5 required or requested to be disclosed by law or regulation.

### 4 BREACH

The Recipient agrees that any breach of its obligations under this agreement could cause irreparable harm to the Fund or the Fund Manager and damages may be an inadequate remedy. Therefore the Fund Manager may be entitled to equitable relief including the remedies of injunction and specific performance.

### 5 NO RESPONSIBILITY

The Recipient shall be responsible for making its own decisions in relation to the Confidential Information and acknowledges that the Fund Manager does not make any representation relating to the accuracy and completeness of the Confidential Information. However, the Fund Manager confirms that the Confidential Information has been provided in good faith.

### 6 GENERAL

6.1 Nothing in this agreement shall commit either party to agree to enter into any further agreement or negotiations.

6.2 No failure or delay by either party in exercising any right or remedy shall operate as a waiver.

6.3 This agreement shall be construed and interpreted under the laws of ..... and the parties consent to the non-exclusive jurisdiction of the ..... Courts.

6.4 This agreement shall remain in force for two years from the date of this agreement, or on the effective date of a definitive agreement being entered into.

6.5 This agreement may be executed in counterparts which together shall constitute one agreement.

### Signed for and on behalf of the Fund Manager

Signature .....

Name (in BLOCK CAPITALS) .....

### Signed for and on behalf of the Recipient

Signature .....

Name (in BLOCK CAPITALS) .....