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**Dated** **2024**

**GREATER MANCHESTER low carbon udf (GP) LIMITED (AS GENERAL PARTNER OF THE GREATER MANCHESTER low carbon udf LIMITED PARTNERSHIP)**

**[INVESTMENT ADVISER]**

**INVESTMENT ADVISER AND OPERATOR AGREEMENT: LOW CARBON FUND**

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**This Agreement** is made on 2024

Between

1. **GREATER MANCHESTER LOW CARBON FUND UDF (GP) LIMITED**,a private limited company registered in England and Wales with company number 10591763 whose registered office is at 1st Floor, Churchgate House, 56 Oxford Street, Manchester, M1 6EU, acting in its capacity as the general partner of the Greater Manchester Low Carbon UDF Limited Partnership, a limited partnership established and registered in England and Wales with registration number LP017868 whose registered office is at 1st Floor, Churchgate House, Oxford Street, Manchester, M1 6EU (**LCF** **General Partner**); and

1. **[INVESTMENT ADVISER]** (No. ⧫) whose registered office is at [⧫] (**Investment Adviser**),

(each a **party** and together the **parties**).

Whereas

1. The LCF General Partner is the general partner of the LCF LP, the activities and operation of which are governed by the terms of the LCF Partnership Agreement (as defined below).
2. The GMCA entered into a funding agreement with DLUHC (as defined below) under which ERDF funding is made available to the FoF General Partner as the "ERDF Recipient". The GMCA also established the LCF LP with the objective of applying European Regional Development Fund funding to eligible projects across the Project Area relating to Priority Axis 4b under the umbrella of the funding agreement with the DLUHC.
3. The Contingent Loan Agreement (as defined below) provides for the FoF General Partner to make available relevant tranches of ERDF funding subject to compliance by the LCF General Partner with the DLUHC's conditions in relation to investments using ERDF. The funding made available by the FoF General Partner under the Contingent Loan Agreement is referred to in this Agreement as the **Low Carbon Fund**.
4. The LCF General Partner wishes to appoint the Investment Adviser to provide the Services in relation to the operation and management of the Low Carbon Fund and the Investment Adviser accepts such appointment on the terms and conditions in this Agreement.
5. The Investment Adviser is authorised under FSMA to carry out regulated activities in the United Kingdom, regulated by the FCA in the conduct of its regulated activities, and is permitted by the FCA to act as an AIFM of one or more AIFs, in each case enabling the Investment Adviser to perform its obligations in this Agreement to the extent required.

It is agreed

1. Interpretation
   1. In this Agreement the following capitalised words and expressions shall have the following meanings respectively unless the context requires otherwise:
2. **Access to Finance Measures** means 'The English Aid for access to finance for SMEs State Aid Scheme' (SA.39065)
3. **Administrator** **Services** means the administration services set out in paragraph 5 of Schedule 1 (Services)
4. **Agreement Date** means the date of this Agreement
5. **AIF** means an alternative investment fund within the meaning of Article 4(1)(a) of the AIFMD
6. **AIFM** means an alternative investment fund manager within the meaning of Article 4(1)(b) of the AIFMD
7. **AIFMD** means Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers
8. **AIFM Delegated Regulation** means delegated regulation (EU) No 231/2013 of the European Commission of 19 December 2012 supplementing the AIFMD
9. **AIFM Regulations** means the Alternative Investment Fund Managers Regulations 2013
10. **AIFM Requirements** means the AIFMD, AIFM Delegated Regulation and/or the AIFM Regulations
11. **AIFM Services** means the Operator Services and any other services necessary to ensure that the LCF General Partner and the Investment Adviser comply with the AIFM Requirements
12. **Applicable Requirements** means all applicable Law and regulations and, if applicable, the prevailing rules, regulations, requirements, determinations, practice and guidelines of any governmental, market or regulatory authority in any jurisdiction to which the relevant person is subject (including without limitation):
    1. FSMA and the FCA Rules
    2. AIFM Requirements (as applicable)
    3. Structural and Investment Funds Regulations
    4. the Limited Partnerships Act 1907
    5. Community Rules
    6. Procurement Law
    7. State Aid Law and/or Subsidy Control Law (as applicable) and
    8. any regulations applicable in relation to sale and rent back transactions (and transactions with occupational tenants)
13. **Application** shall have the meaning set out in the Contingent Loan Agreement
14. **Associate** means, in relation to either party:
    1. any subsidiary undertaking or parent undertaking (whether direct or indirect) of the relevant party and any subsidiary undertaking of any such parent undertaking (**parent undertaking** and **subsidiary undertaking** having the same meanings as in section 1162 Companies Act 2006) and
    2. any person with whom the relevant party or any Associate of the relevant party is connected, the question of whether any such person is so connected falling to be determined for this purpose in accordance with the provisions of section 1122 Corporation Tax Act 2010
15. **Community Rules** means the rules set out in relevant legislation and supporting guidance covering the European Structural and Investment Funds, State Aid Law, public procurement, financial instruments (including but not limited to 'Guidance on European Structural and Investment Funds 2014-2020’ published by the European Commission on its website from time to time) and other relevant standards and applicable legislation on the prevention of money laundering, the fight against terrorism and tax fraud
16. **Contingent Loan** shall have the meaning set out in the Contingent Loan Agreement
17. **Contingent Loan Agreement** means the agreement dated 9 May 2018 between the FoF General Partner and the LCF General Partner
18. **Controller** has the meaning given to it under the UK GDPR
19. **Core Documents** shall have the meaning set out in the Contingent Loan Agreement
20. **Data** means:
    1. the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:
       1. supplied to the Investment Adviser by or on behalf of the LCF General Partner; or
       2. which the Investment Adviser is required to generate, process, store or transmit pursuant to this Agreement; or
    2. any Personal Data for which the LCF General Partner is the Data Controller
21. **Data Protection Impact Assessment** has the meaning given to it under the UK GDPR
22. **Data Protection Legislation** means all laws that relate to data protection, privacy, use of information relating to individuals, and or the information rights of individuals including, without limitation, the UK GDPR, the Data Protection Act 2018, the Privacy and Electronic Communication (EC Directive) Regulations 2003, the Regulation of Investigatory Powers Act 2000, the Telecommunications (lawful Business Practice) (Interception of Communications (EC Directive) Regulations 2000, the Consumer Protection from Unfair trading regulations 2008, all as amended or replaced from time to time or Applicable Laws relating to the processing of Personal Data under this Agreement and any regulatory codes of practice and guidance issued from time to time, including from the ICO
23. **Data Subject** has the meaning given to it under the UK GDPR

**Data Subject Request** has the meaning given to it under the UK GDPR

**Distribution** means a distribution in cash or specie to the Partners pursuant to the LCF Partnership Agreement

1. **DLUHC** means the Department for Levelling Up, Housing and Communities
2. **Eligibility Rules** means the rules governing eligibility of expenditure for payment of European Regional Development Fund contained in:
   1. Regulation 1301
   2. Regulation 1303
   3. The National European Regional Development Fund Eligibility Rules and
   4. the rules specific to Financial Instruments in Regulation 480
3. **Equity Investment** means a risk capital investment made by acquiring an equity or quasi-equity stake in an undertaking as further defined in Regulation 966
4. **Evergreen 2 Fund** means the fund established by the Evergreen 2 General Partner with the objective of applying European Regional Development Fund funding to eligible projects across the Project Area relating to Priority Axis 4b and 1a
5. **Evergreen 2 Fund General Partner** means Greater Manchester Evergreen 2 (GP) Limited, a private limited company registered in England and Wales with company number 10591905 whose registered office is at 1st Floor, Churchgate House, 56 Oxford Street, Manchester, M1 6EU, acting as the general partner of the Greater Manchester Evergreen 2 Limited Partnership with registered number LP017867
6. **FCA** means the United Kingdom Financial Conduct Authority or any successor
7. **FCA Handbook** means the FCA Handbook of Rules and Guidance
8. **FCA Rules** means any rules and/or guidance issued by the FCA pursuant to FSMA
9. **Fees** means amount determined by reference to Schedule 3 (Fees)
10. **Force Majeure** means any event outside the reasonable control of a party affecting its ability to perform any of its obligations under this Agreement including Act of God, fire, flood, lightning, war, revolution, act of terrorism, riot or civil commotion, strikes, lock-outs or other industrial action, whether of the affected party's own employees or others, failure of supplies of power, fuel, transport, equipment, raw materials or other goods or services
11. **FSMA** means the Financial Services and Markets Act 2000
12. **FoF Limited Partnership** means Greater Manchester FoF Limited Partnership, a limited partnership registered in England and Wales with registration number LP017697 whose registered office is at 1st Floor, Churchgate House, Oxford Street, Manchester, M1 6EU and established by the FoF General Partner (as general partner) and GMCA (as limited partner) to undertake Relevant Investments in accordance with the Funding Agreement
13. **FoF General Partner** means Greater Manchester FOF (GP) Limited, a private limited company registered in England and Wales with company number 10482059 whose registered office is at 1st Floor, Churchgate House, 56 Oxford Street, Manchester, M1 6EU, acting as the general partner of the FoF Limited Partnership
14. **Funding Agreement** means the Funding Agreement entered into between the Secretary of State, the FoF General Partner and the GMCA dated 22 November 2016
15. **Funding Agreement Business Plan** means the business plan forming Part II of the Investment Policy
16. **GBER** means the General Block Exemption Regulation, Commission Regulation (EU) 651/2014
17. **GMCA** means the Greater Manchester Combined Authority
18. **Group Company** means any subsidiary, subsidiary undertaking, or holding company of the company in question and any subsidiary or subsidiary undertaking of such holding company (in each case from time to time) and the terms **subsidiary** and **holding company** shall have the meanings given to them by section 1159 Companies Act 2006
19. **Guarantee** means a written commitment to assume responsibility for all or part of a third party's debt/obligations as further defined in Regulation 966
20. **Information and Communications Technology Environment** has the meaning set out in the Funding Agreement
21. **Initial Term** has the meaning given in clause 2.2

**Investment Adviser Services** means the services set out in paragraphs 1 to 4 (inclusive) of Schedule 1 (Services)

**Investment Policy** means the investment policy (including the investment objectives, strategy and restrictions) adopted by the FoF General Partner in respect of the Evergreen 2 Fund and the Low Carbon Fund as set out in Schedule 2 (Investment Policy) as the same may be amended from time to time, and references to the Investment Policy shall be deemed to refer to the Funding Agreement Business Plan also

1. **Key Personnel** means [*personnel specified in tender response*]
2. **Law** means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body
3. **LCF LP** means the Greater Manchester Low Carbon UDF Limited Partnership, a limited partnership established and registered in England and Wales with registration number LP017868 whose registered office is at 1st Floor, Churchgate House, Oxford Street, Manchester, M1 6EU
4. **LCF Partnership Agreement** means the limited partnership agreement for LCF LP entered into between the LCF General Partner and the Limited Partner dated 14 May 2018 as amended from time to time
5. **Limited Partners** means any partner or partners in the LCF LP other than the LCF General Partner
6. **Loan** means an agreement which obliges the lender to make available to the borrower an agreed amount of money for an agreed period of time and under which the borrower is obliged to repay the amount within the agreed period, as further defined in Regulation 966
7. **Loan Underwriting Team** means the specialist loan underwriting team of the Investment Adviser
8. **Low Carbon Fund** has the meaning given in Recital (C), the amount of such fund being as increased or decreased by the FoF General Partner from time to time under the Contingent Loan Agreement
9. **Low Carbon Fund Business Plan** means the plan as approved from time to time by the LCF General Partner pursuant to clause 2.8
10. **Match Funding** has the meaning set out in the Contingent Loan Agreement
11. **Malicious Software** has the meaning set out in the Funding Agreement
12. **National European Regional Development Fund Eligibility Rules** means the National Eligibility Rules published from time to time by the DLUHC and contained on the Website, the version subsisting at the date of this Agreement being European Regional Development Fund Operational Programme for England 2014-20, National Eligibility Rules, March 2015
13. **Operator Services** means the services set out in paragraph 6 of Schedule 1 (Services)
14. **Partner** means the LCF General Partner and/or all or any of the Limited Partners, as the case may require (and **Partners** shall be construed accordingly)
15. **Personal Data** has the meaning given to it under the UK GDPR
16. **Potential Projects** means those projects that apply to the LCF LP or the LCF General Partner (as the case may be) for finance from the Low Carbon Fund
17. **Process** has the meaning given to it under the UK GDPR, as amended but, for the purposes of this Agreement, it shall include both manual and automatic processing, and **Processor** and **Processing** shall be construed accordingly
18. **Procurement Law** includes, but is not restricted to EC Directives 2004/18/EC, 2004/17/EC and 2007/66/EC, Directive 2014/24/EU, the Public Contracts Regulations 2006 (S1 No 5/2006)(as amended), the Public Contracts Regulations 2015 and the Utilities Contracts Regulations 2006 (SI No 6/2006)(as amended), the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020, the Procurement Act 2023 and includes the Interpretative Communication, the Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union
19. **Project Area** means the geographical area of each of the Members of the GMCA as at the date of the Funding Agreement
20. **Projects** means those Potential Projects that qualify for finance from the Low Carbon Fund and in respect of which the Project Documents are duly executed
21. **Project Business Plan** means the business plan relating to a Project produced by the Project Developer, as amended from time to time
22. **Project Developer** means the developer of either a Potential Project or a Project (as the case may be)
23. **Project Developer Fees** means such sums as the Investment Adviser is permitted to charge to a relevant Project Developer in accordance with this Agreement as described in Schedule 3 (Fees), or otherwise approved in writing by the LCF General Partner from time to time

**Project Documents** means the documents in a form agreed by the LCF General Partner in writing to be entered into between the LCF General Partner and the relevant Project Developer or related parties in relation to each Project

1. **Purpose** means the purpose of the LCF LP as described in the LCF Partnership Agreement or agreed from time to time by the LCF General Partner, such purpose to be notified in writing to the Investment Adviser
2. **Qualifying Final Recipients** means final recipients of Relevant Investments (selected on the basis of transparent and objective grounds which do not give rise to a conflict of interest) which meet thequalifying requirements for support as detailed in the Funding Agreement Business Plan and which are not otherwise precluded, whether by operation of any Community Rules or otherwise from being a beneficiary of a Relevant Investment and which in the case of Access to Finance Measures in all cases fall within the definition of an SME
3. **Quarter Dates** means 31 March, 30 June, 30 September and 31 December in each year
4. **Quasi-equity investment** means any investment ranking between equity and debt as further defined in Regulation 966 and State Aid Law
5. **Regulation 480 (aka Delegated Regulation)** means Commission Delegated Regulation (EU) No 480/2014 of 3 March 2014 supplementing Regulation 1303
6. **Regulation 966 (aka Financial Regulation)** means Regulation (EU) No. 966/2012
7. **Regulation 1301 (aka ERDF Regulation)** means Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal, as amended
8. **Regulation 1303 (aka Common Provisions Regulation/CPR)** means Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 which sets out common provisions on the Structural and Investment Funds, as amended
9. **Regulatory Body** means those government departments and regulatory, statutory, EU and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the Secretary of State and "Regulatory Bodies" shall be construed accordingly
10. **Relevant Agreement** means:
    1. an agreement for services relating to ERDF funding similar to the Services under this Agreement entered into by the Investment Adviser and the Evergreen 1 General Partner in relation to the Evergreen 1 Partnership dated [⧫]; [and/or
    2. an agreement for services relating to ERDF funding similar to the Services under this Agreement entered into by the Investment Adviser and the Evergreen 2 General Partner in relation to the Evergreen 2 Partnership dated [⧫]][[1]](#footnote-1)
11. **Relevant Investment** means an Equity Investment, Loan, Quasi-Equity Investment or Guarantee made by the Low Carbon Fund in accordance with:

(a) the Community Rules; and

(b) the Core Documents

1. **Request for Information** has the meaning given in the Freedom of Information Act 2000 (c.36)
2. **Returns** has the meaning set out in the Funding Agreement
3. **SCA** means the Subsidy Control Act 2022
4. **Secretary of State** means the Secretary of State for Levelling Up, Housing and Communities
5. **Services** means the Operator Services, the AIFM Services, the Investment Adviser Services and the Administrator Services and all other obligations of the Investment Adviser under this Agreement
6. **SME** means a small to medium sized enterprise as set out in Article 2 (definitions) and Annex 1 of GBER
7. **State Aid Law** means the law embodied in Articles 107 -109 of Section 2, Title VII, of the Common Rules on Competition, Taxation and Approximation of Laws-Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union including any compatible exemptions to the prohibition to Article 107(1)
8. **Structural and Investment Funds** means together the European Regional Development Fund (ERDF), Cohesion Funds and the European Social Fund (ESF)
9. **Structural and Investment Funds Regulations** means Regulation 1301, Regulation 1303 and any delegated or implementing regulations adopted under those Regulations
10. **Subsidy Control Law** means any provision of law or regulation relating to the giving of subsidies out of public resources including without limitation the Subsidy Control Act 2022 and, to the extent applicable the subsidy control provisions embodied in Part Two, Title XI, Chapter 3 of the UK-EU Trade and Co-operation Agreement, the Northern Ireland Protocol and any other directly effective subsidy control provisions contained in trade agreements between the UK and other states and including any related secondary legislation and (to the extent legally binding) any applicable judgment, court order, statute, statutory instrument, regulation or decision
11. **Sustainability Team** means the specialist consultant appointed by the Investment Adviser to address ERDF compliance and to ensure that each Project fits in the strategic context of the Investment Policy and the Low Carbon Fund Business Plan
12. **Targets** means the targets and outputs set out in the Investment Policy which relate to the Low Carbon Fund
13. **Term** means the Initial Term plus any extension notified to the Investment Adviser pursuant to clause 2.3
14. **UK GDPR** shall have the meaning given to it in the Data Protection Act 2018
15. **VAT** means United Kingdom value added tax and/or any other value added tax or sales tax applicable in the United Kingdom or any other country
16. **Working Day** means a day, other than Saturday or Sunday, on which commercial banks in the United Kingdom settle payments and are open for general business
    1. References in this Agreement to numbered clauses, schedules or appendices (other than references to numbered clauses or schedules of the LCF Partnership Agreement or Contingent Loan Agreement) are to clauses of schedules to or appendices to this Agreement.
    2. The headings to the clauses of this Agreement are for convenience only and shall not affect the construction or interpretation thereof.
    3. In this Agreement references to the LCF LP, unless the context otherwise requires, are to be read as references to the LCF LP acting through the LCF General Partner and references to the LCF General Partner are to the LCF General Partner acting as general partner of the LCF LP.
    4. In this Agreement references to any statute include subordinate legislation made pursuant to it and references to any statutes, statutory instruments, rules, directives, regulations, requirements, determinations, practices or guidelines shall mean those statutes, statutory instruments, rules, regulations, requirements, determinations, practices or guidelines as from time to time modified, amended, substituted or replaced.
    5. Reference to 'this Agreement' includes any variations made from time to time pursuant to these terms.
    6. Reference to "including" shall be construed so as not to limit the generality of any words or expressions in connection with which it is used.
    7. Reference to "determined" or "determine" means, unless the contrary is indicated a determination made at the discretion of the person making it.
    8. Where the consent approval or agreement of the Secretary of State is required pursuant to the terms of this Agreement or the Funding Agreement, it shall not be construed as having been given unless provided in writing.
    9. Words importing one gender shall include both genders and the singular shall include the plural and vice versa.
    10. The Guidelines for Determining Financial Corrections for Financial Instruments and the National European Regional Development Fund Eligibility Rules shall have the same force and effect as if expressly set out in the body of this Agreement.
    11. In the event of a conflict between the main body of this Agreement and any Schedule of this Agreement, the conditions set out in the main body of this Agreement shall take priority.
17. Appointment of the Investment Adviser
    1. The LCF General Partner hereby appoints the Investment Adviser to provide the Services throughout the Term upon the terms and conditions of this Agreement and the Investment Adviser hereby accepts such appointment and agrees to assume the duties and responsibilities set out in this Agreement in consideration for the payment of the Fees.
    2. This Agreement shall commence on the Agreement Date and unless lawfully terminated earlier shall continue in force for a period of four (4) years (**Initial Term**) subject to any extension in accordance with clause 2.3.
    3. The Term may be extended at the sole option of the LCF General Partner on no more than two (2) occasions, on each occasion by a period of one (1) year, by service of a written notice on the Investment Adviser, provided that such notice is given no later than three (3) months prior to the end of the Initial Term or the expiry of an earlier extension granted pursuant to this clause (as applicable). In the event of an extension, the terms of this Agreement shall continue to apply.
    4. The Investment Adviser confirms that it is familiar with the terms of the LCF Partnership Agreement, the Contingent Loan Agreement and the Funding Agreement, and acknowledges that it is required to provide the Services where relevant so as to allow the LCF Partnership (and the FoF General Partner) to comply with their obligations under those agreements.
    5. Without prejudice to clause 2.1 the LCF General Partner appoints the Investment Adviser as the AIFM of the LCF LP and the Low Carbon Fund to perform the attendant functions, duties and responsibilities in accordance with this Agreement, in compliance with the LCF Partnership Agreement and the Applicable Requirements.
    6. The Investment Adviser shall act as AIFM for the LCF LP and the Low Carbon Fund upon the terms of this Agreement and shall have full power and authority, on behalf of the LCF General Partner to carry out all the Operator Services and Administrator Services. The LCF General Partner shall be bound by all the acts of the Investment Adviser in the proper exercise of its rights and carrying out the Operator Services and Administrator Services.
    7. Without prejudice to clauses 2.1 to 2.6, the Investment Adviser:
       1. shall carry out such duties and responsibilities as allocated to the Investment Adviser under this Agreement and/or the LCF Partnership Agreement, including portfolio management and risk management of the LCF LP (being such functions as referred in to paragraph 1 of Annex 1 of the AIFMD and more specifically described in Schedule 1 (Services) to this Agreement); and
       2. shall carry out the Services in accordance with the Investment Policy and the Contingent Loan Agreement and any restrictions set out in the LCF Partnership Agreement provided that nothing shall prohibit the Investment Adviser from acting in accordance with its regulatory duties under FSMA or the FCA Rules.
    8. The Investment Adviser shall, no later than ninety (90) days following the Agreement Date, submit a proposed business plan to the LCF General Partner containing a proposed strategy for implementing the Investment Policy in relation to the Low Carbon Fund. The Parties shall discuss the draft business plan as necessary, and the LCF General Partner may request such amendments to the proposed business plan as it reasonably requires, which shall be incorporated by the Investment Adviser as appropriate. Following approval of such plan by the LCF General Partner, the Investment Adviser shall provide the Services in compliance with such approved business plan (the **Low Carbon Business Plan**).
    9. The Investment Adviser may not make any amendments to the Low Carbon Fund Business Plan without the LCF General Partner's consent.
18. Investment Adviser responsibilities and power
    1. In performing the Services the Investment Adviser shall operate as and have the status of an independent contractor and, save as otherwise provided in this Agreement, shall not operate or have the status of agent, employee or representative of the LCF General Partner. The LCF General Partner authorises the Investment Adviser to act as the LCF General Partner's agent and representative to the extent reasonably necessary to perform the Services.
    2. The Investment Adviser shall use all reasonable endeavours in the performance of the Services to ensure that the Low Carbon Fund achieves the Targets.
    3. When determining whether the Investment Adviser has complied with its obligations under clause 3.2 at any point in time, the parties agree that the following (without limitation) shall be taken into account:
       1. the length of time the Investment Adviser has been appointed under this Agreement;
       2. the stage which each ongoing Project is at in its life cycle;
       3. the occurrence of any events or circumstances beyond the Investment Adviser's reasonable control having a material adverse impact on the achievement of any Targets.
    4. In carrying out its portfolio management functions, the Investment Adviser shall manage the LCF LP's assets in order to implement the Investment Policy, the Low Carbon Fund Business Plan and all other portfolio management obligations imposed on it by the AIFM Requirements and other Applicable Requirements.
    5. In carrying out its risk management function, the Investment Adviser shall establish, implement and maintain adequate risk management systems (including an adequate and documented risk management policy and liquidity management policy) in order to identify, measure, manage and monitor appropriately all the risks relevant to the Investment Policy and the Low Carbon Fund Business Plan and to which the LCF LP is or can be exposed. The Investment Adviser shall furthermore comply with all other risk management obligations imposed on it by the AIFM Requirements (as applicable) and other Applicable Requirements.
    6. In carrying out its assets valuation function, the Investment Adviser will implement a pricing and valuation policy adequate to ensure the LCF LP and LCF General Partner are compliant with the AIFM Requirements and other Applicable Requirements.
    7. The Investment Adviser undertakes throughout the Term, without prejudice to any other provision of this Agreement:
       1. to carry out the Services in accordance with the terms of the LCF Partnership Agreement (in so far as such terms are stated to relate to the Investment Adviser), the Contingent Loan Agreement and the Applicable Requirements;
       2. to carry out the Services in accordance with the terms of the Contingent Loan Agreement relating to the activities of the Investment Adviser as if the provisions were expressly stated here in full, including (without limitation):
          1. clause 5.1(e);
          2. clause 11;
          3. clause 13;
          4. clause 27; and
          5. clause 30;
       3. to ensure that no entity involved in or concerned with the Services is established in, or knowingly maintains business relations with, entities which are incorporated in territories whose jurisdictions do not cooperate with the European Union in relation to the application of the internationally agreed tax standards;
       4. to monitor compliance with the Investment Policy and the Business Plan;
       5. to engage the Key Personnel in providing the Services;
       6. to comply with the duties and responsibilities and comply with any applicable obligations and requirements imposed on it by the AIFM Requirements due to its appointment as AIFM of the LCF General Partner, including without limitation all the relevant substance, organisational, operating and transparency obligations as set out in the AIFM Requirements;
       7. to comply with all applicable laws, statutes, regulations, and codes relating to anti‑bribery and anti-corruption including but not limited to the Bribery Act 2010;
       8. to monitor compliance by the LCF General Partner with the Contingent Loan Agreement, the Investment Policy and the LCF Partnership Agreement (in relation to the matters falling within the scope of the Services) and report on and provide advice to the LCF General Partner on such compliance (or non-compliance);
       9. to procure, if and to the extent it is able given the scope of authority and powers delegated to it under this Agreement and/or the LCF Partnership Agreement, that the LCF General Partner complies with the FCA Rules and the FSMA and the Limited Partnerships Act 1907;
       10. to monitor the compliance (or non-compliance) by each Project Developer with the terms of the relevant Project Documents, to report on and provide advice to the LCF General Partner on such compliance (or non-compliance) and, having been authorised to do so by the LCF General Partner, to take such steps on behalf of the LCF General Partner as may be required to manage and administer the enforcement of compliance by any non-compliant Project Developer with the terms of the relevant Project Documents including (if authorised to do so by the LCF General Partner) instructing lawyers in accordance with the Contingent Loan Agreement;
       11. to provide the Services with the degree of professional care, efficiency, transparency and diligence expected from a professional body experienced in implementing financial instruments in accordance with best practice in the financial services industry in the United Kingdom, and taking account of the LCF General Partner's need to manage Relevant Investments in a cost effective and efficient manner;
       12. to comply with and ensure that any person to whom the performance of any part of the Services is delegated in accordance with this Agreement shall comply with (to the extent that such requirement, conditions, instructions, guidelines, terms or provisions relate to the Investment Adviser and/or its performance of this Agreement):
           1. the Contingent Loan Agreement;
           2. the LCF Partnership Agreement; and
           3. any reasonable instructions and guidelines issued in writing to the Investment Adviser by the LCF General Partner, FoF General Partner and/or the Secretary of State from time to time;
       13. to be responsible for advising the LCF General Partner on its day to day investments (including authority to buy, sell, retain, or otherwise deal in investments once such decision has been made by the LCF General Partner and acting as agent of the LCF General Partner where appropriate) in compliance with the Investment Policy and the Low Carbon Fund Business Plan;
       14. to liaise and co-operate with the Secretary of State, the FoF General Partner and with the LCF General Partner and its auditors, bankers and other professional service providers and provide them with such information and instruction and copy documents as they may reasonably require in relation to the services that they provide to the LCF General Partner;
       15. to act in the best interests of the LCF General Partner in making investment recommendations for the LCF General Partner in accordance with the Investment Policy and the Low Carbon Fund Business Plan;
       16. to devote such time and resource as is necessary to ensure the due performance of the Services;
       17. to employ competent and appropriately experienced and skilled persons to perform the Services;
       18. to make available to the LCF General Partner and the FoF General Partner all expertise and knowledge reasonably necessary in the proper performance of the Services and at all times act in good faith towards the LCF General Partner and the FoF General Partner.
    8. The Investment Adviser shall observe and comply with all proper instructions, resolutions and all lawful orders and directions given to it from time to time by the LCF General Partner, the FoF General Partner and/or the Secretary of State. Any specific instructions, directions or other communications by or on behalf of the LCF General Partner, the FoF General Partner and/or the Secretary of State to the Investment Adviser or to the LCF General Partner, the FoF General Partner and/or the Secretary of State by the Investment Adviser are to be given to or by any member or employee of the Investment Adviser and may be either oral or in writing under the hand of a person from time to time authorised by the LCF General Partner and/or the Secretary of State or the Investment Adviser, as the case may be. The Investment Adviser shall accept and comply with any instructions, directions or other communications from the LCF General Partner which are within the terms of this Agreement.
    9. The Investment Adviser shall inform the LCF General Partner as soon as reasonably practicable of:
       1. any breach of this Agreement;
       2. any actual or potential inability on the part of the Investment Adviser or any party to whom any of the duties and responsibilities of the Investment Adviser have been delegated in accordance with this Agreement to meet its obligations under this Agreement or the relevant appointment (as applicable).
19. Investments and Fund Management
    1. The Investment Adviser shall ensure that the Services are provided in accordance with the terms of the Low Carbon Fund Business Plan and the Investment Policy throughout the Term and shall ensure that the process of selecting Qualifying Final Recipients shall be transparent and justified on objective grounds and shall not give rise to a conflict of interest.
    2. Without prejudice to the conditions set out in clause 4.4, the Investment Adviser shall ensure that any Project Documents provide support in a way which is proportionate and has the least distortive effect on competition.
    3. Further to clause 4.1, the Investment Adviser shall ensure that no Project Documents are entered into directly or indirectly:
       1. with an investment project, business or company which is not a Qualifying Final Recipient,
       2. which is not in compliance with State Aid Law and/or Subsidy Control Law (as applicable);
       3. with any business or company which does not have its principal place of business or a material part of its operations, people or trading in the Project Area, unless as a condition of the Project Documents that business or company is required to re‑locate its business or its trading activities to within the Project Area;
       4. with any business or company which taking due account of the nature of the financial instrument, the potential economic viability of the investment project to be financed and prospects of the business or company, does not have a viable economic business plan based on the utilisation of a Relevant Investment provided through the Fund;
       5. with any investment project which is fully implemented or physically completed at the date when the decision to invest is made by the Fund;
       6. which would be against the strategic or security interest of the UK; or
       7. which is inconsistent with the requirements of the Low Carbon Fund Business Plan or the Investment Policy.
    4. The Investment Adviser shall maintain thenecessary expertise and resources to provide the Services in accordance with State Aid Law and Subsidy Control Law throughout the Term. The Investment Adviser agrees to maintain appropriate records of compliance with the State Aid Law and Subsidy Control Law and agrees to take all reasonable steps to assist the LCF General Partner to comply with State Aid Law and Subsidy Control Law requirements including responding to any investigation(s) instigated by the European Commission relevant to the Services.
    5. The Investment Adviser shall assess whether each Relevant Investment constitutes State Aid (as defined in State Aid Law) and/or a subsidy (as defined in the SCA) and shall ensure that each Relevant Investment is compliant with State Aid Law and Subsidy Control Law.
20. Records and Reporting
    1. The Investment Adviser shall:
       1. issue to the LCF General Partner a quarterly report, the form and content of which is to be agreed with the LCF General Partner from time to time;
       2. provide to the LCF General Partner such reports and certificates as reasonably required under the LCF Partnership Agreement and/or the Contingent Loan Agreement from time to time including but not limited to the quarterly and annual reports described at clause 22 of the Contingent Loan Agreement;
       3. provide detailed portfolio analysis and market reviews each quarter to be considered by the LCF General Partner, the form and content of which is to be agreed with the LCF General Partner from time to time;
       4. keep or cause to be kept on behalf of the LCF General Partner such books, records and statements as may be required under the LCF Partnership Agreement, the Contingent Loan Agreement or as is necessary to give a complete record of all transactions carried out pursuant to this Agreement, including as are required pursuant to and in order to satisfy clause 24 of the Contingent Loan Agreement;
       5. permit the Secretary of State, the FoF General Partner and/or the LCF General Partner, and their auditors and other advisers (and their respective employees and agents), during business hours to inspect such books, records and statements held by the Investment Adviser pursuant to this Agreement, the LCF Partnership Agreement and/or the Contingent Loan Agreement;
       6. permit any Regulatory Body (and its employees, representatives and agents) to inspect such books, records and statements held by the Investment Adviser pursuant to this Agreement, the LCF Partnership Agreement and/or the Contingent Loan Agreement;
       7. provide for a representative of the Investment Adviser to attend at board meetings of the LCF General Partner if requested by the LCF General Partner in order to provide information and answer questions concerning the performance of the Services;
       8. provide in a timely fashion such information as it, or its Associates or delegates, has in its or their possession or under its or their control and as is reasonably requested by the LCF General Partner, the FoF General Partner and/or the Secretary of State to enable the LCF General Partner to meet any requirements or requests under the Applicable Requirements, the Contingent Loan Agreement and/or the LCF Partnership Agreement (and/or the FoF General Partner to meet any requirements or requests under the Applicable Requirements or the Funding Agreement);
       9. inform the LCF General Partner immediately if the Investment Policy or the Low Carbon Fund Business Plan (or any guideline or other restriction set out in the LCF Partnership Agreement or Contingent Loan Agreement or notified to the Investment Adviser by the LCF General Partner and/or the Secretary of State) is breached and provide prompt recommendations for rectifying such breach; and
       10. devote such time and resource as is necessary to ensure the due performance of the Services.
21. Appointees
    1. Subject to complying with clause 14, the Investment Adviser may in the performance of its duties and in the exercise of any of the powers and discretions vested in it under this Agreement to act by responsible officers for the time being appointed for that purpose and may act or rely upon the opinion or advice or any information obtained from any lawyer, valuer, accountant, banker, surveyor, auctioneer or other expert (**Appointee**) whether reporting to the LCF General Partner or the Investment Adviser. The fees of any agent employed or engaged by the Investment Adviser in relation to matters concerning State Aid Law or Subsidy Control Law and the Eligibility Rules shall be an expense of the LCF General Partner and not an expense of the Investment Adviser if, and to the extent, such fees have been previously agreed in writing by the LCF General Partner. The fees of any other agent employed or engaged by the Investment Adviser shall be paid for out of the Low Carbon Fund if, and to the extent, previously agreed in writing as such by the LCF General Partner.
    2. In relation to the selection and appointment of any Appointee(s) in accordance with clause 6.1 or any Delegate(s) in accordance with clause 14, the Investment Adviser shall:
       1. comply with all relevant obligations applicable to the LCF General Partner under Procurement Law and shall run a formal tender process which shall be fair, reasonable, transparent, addressed to the relevant section of the market and advertised in the appropriate forum;
       2. keep the LCF General Partner informed at each stage of the procurement and regularly report on progress of the procurement, having regard to the LCF General Partner's internal audit processes.
22. Insurance
    1. The Investment Adviser will maintain at all times throughout the Term:
       1. professional indemnity insurance in an amount of not less than £5m for each claim or £10m in aggregate per annum;
       2. employer's liability insurance in an amount of not less than £5m for each claim or £10m in aggregate per annum; and
       3. public liability insurance in an amount of not less than £5m for each claim or £10m in aggregate per annum,

in each case with an insurer of good repute and on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time and will supply the LCF General Partner with evidence of each of the insurances promptly upon request.

1. Warranties
   1. The Investment Adviser warrants that:
      1. it is of good standing and has the right and corporate authority to enter into this Agreement and has all the necessary rights to perform its obligations under this Agreement;
      2. all requisite corporate proceedings have been taken to authorise it to enter into this Agreement and to perform its duties under this Agreement;
      3. its entry into this Agreement does not breach any other agreement to which it is a party; and
      4. this Agreement, when executed and delivered, will constitute a legal, valid and binding obligation on it, enforceable against it in accordance with its terms.
   2. The Investment Adviser warrants that it is authorised and regulated by the FCA to carry out regulated activities in the United Kingdom and is permitted by the FCA to act as AIFM of the LCF LP and the Low Carbon Fund, and is enabled by such authorisation and permission to perform the Services in accordance with this Agreement insofar as the Services are required to be performed under FSMA or AIFMD or the FCA Rules by a person so authorised.
2. Investment Adviser Fees
   1. The Investment Adviser shall receive the Fees by way of remuneration from the LCF General Partner for the provision of the Services, which shall be invoiced in arrears in equal quarterly instalments on the Quarter Dates, the first such instalment to be pro rata to the first relevant Quarter Date.
   2. The LCF General Partner shall settle each invoice within thirty (30) days of issue in accordance with this Agreement. All sums are exclusive of VAT or any other applicable tax or duty payable upon such Fees which shall be added if appropriate at the rate prevailing at the relevant tax point.
   3. In the event of any failure to settle any fee when due, interest shall accrue at the rate per annum of 3% above the LIBOR reference rate compounded annually.
   4. The Investment Adviser shall maintain records of all Fees received (including but not limited to the basis for charging such Fees, invoice dates and dates of receipt of payment) until the date which is six (6) years following the Expiry Date.
   5. The Investment Adviser shall be entitled to charge Project Developer Fees (including underwriting fees and loan development project monitoring fees) to the Project Developer (or, if different, the borrower under each Project Document) to the extent that such fees are set out in Schedule 3. Any Project Developer Fees exceeding or different to those listed in Schedule 3 shall require the approval of the EG2 General Partner in writing in advance of the relevant Project Documents being entered into.
   6. Subject to clause 6.1, the Fees shall be the only amounts payable by the LCF General Partner, and the Investment Adviser shall be responsible for all other costs and expenses it may incur in relation to providing the Services.
3. LCF General Partner Obligations
   1. The LCF General Partner will provide the Investment Adviser with such information as is reasonably requested to enable it to perform the Services under this Agreement and, where LCF General Partner consent is required under this Agreement, the LCF General Partner will consider the matter in question in good time and provide its consent or not (as the case may be) in writing as soon as practicable.
   2. The LCF General Partner will promptly notify the Investment Adviser of any relevant amendments to the LCF Partnership Agreement, Contingent Loan Agreement or the Investment Policy.
4. Conflicts of Interest
   1. The Investment Adviser shall comply with any procedures reasonably required by the LCF General Partner from time to time in relation to identifying and managing conflicts of interest.
   2. The Investment Adviser will maintain and apply effective organisational and administrative arrangements, with a view to taking all reasonable steps designed to identify, prevent, manage and monitor conflicts of interest in order to ensure that all officers, employees and other persons engaged or consulted by the Investment Adviser in connection with the Services shall not be in a position where there is a conflict of interest. The Investment Adviser undertakes:
      1. to have formal procedures obliging all such persons to declare any actual or potential personal or financial interest in any matter concerning the Services, and to be excluded from any discussion or decision-making relating to the matter concerned; and
      2. to disclose to the Partnership any conflicts of interest that may arise regarding the provision of its services under this Agreement.
   3. If the Investment Adviser has any grounds for suspecting any financial impropriety in the use of any amount paid under the Funding Agreement or the Contingent Loan Agreement it must notify the LCF General Partner immediately, explain what steps are being taken to investigate the suspicion, and keep the LCF General Partner informed about the progress of the investigation. For these purposes "financial impropriety" includes fraud or other impropriety; mismanagement; use of ERDF for improper purposes: and failure to comply with requirements in the Applicable Requirements relating to the control and propriety of expenditure in provision of the Services.
   4. The LCF General Partner shall be entitled to interview employees of the Investment Adviser if fraud or other financial Irregularity is suspected by the LCF General Partner on the part of the Investment Adviser, its employees or agents in connection with the Services.
   5. The relationship between the Investment Adviser and the LCF General Partner as set out in this Agreement is not to be deemed exclusive and the Investment Adviser shall be free to render similar services to others and to retain for its own use and benefit all fees or other moneys payable thereby, subject to complying with the terms of this Agreement.
5. Liability of the Investment Adviser
   1. This clause 12 sets out the entire liability of the Investment Adviser (including any liability for the acts or omissions of its management, employees, delegates or agents and any Group Company) in respect of any breach of this Agreement and any representation, statement or tortious act or omission including negligence arising under or in connection with this Agreement.
   2. Nothing in this Agreement shall exclude or limit a party's liability for death or personal injury caused by that party's negligence or for fraud or fraudulent misrepresentation.
   3. The Investment Adviser shall not be liable for any indirect, special or consequential loss or damage howsoever caused whether in contract, tort, negligence or otherwise (**Indirect Loss**) save in respect of any matter resulting from the Investment Adviser's fraud, and provided that any liability of the Investment Adviser under clause 12.4 shall not constitute Indirect Loss.
   4. The Investment Adviser shall indemnify the LCF General Partner in respect of any losses arising due to any clawback of ERDF funding by the Secretary of State, the FoF General Partner or the LCF General Partner under the Funding Agreement or Contingent Loan Agreement, or any other funding arrangement which may be agreed with the Secretary of State from time to time, which occurs due to a breach by the Investment Adviser of the terms of this Agreement.
   5. Notwithstanding clauses 12.1 to 12.3, the Investment Adviser's maximum aggregate liability to the LCF General Partner (and its successors and assigns) (in contract, tort, negligence or otherwise) arising from, or in connection to, this Agreement howsoever arising shall in no circumstances exceed any of:
      1. except for liability under clause 12.4:
         1. £5 million in relation to any one claim; or
         2. £10 million per annum; or
         3. £20 million in aggregate; and
      2. in respect of liability under clause 12.4, the amount of the losses arising under such clause.
   6. The express terms and conditions of this Agreement shall apply in place of all warranties, conditions, terms, representations, statements, undertakings and obligations whether expressed or implied by statute, common law, custom, usage or otherwise, all of which are excluded to the fullest extent permitted by law.
   7. In accordance with regulation 28(1) of the AIFM Delegated Regulation and clause 14 of this Agreement, the Investment Adviser's liability towards the LCF General Partner and its investors shall not be affected by the fact that the Investment Adviser has delegated its functions to a delegate, or by any further sub-delegation.
6. Term and termination
   1. This Agreement may be terminated by the LCF General Partner by giving not less than six (6) month's written notice to the Investment Adviser, such notice expiring at any time after the first anniversary of the date of this Agreement.
   2. Either party may terminate this Agreement without payment of compensation or other damages caused to the other solely by such termination by giving at least ten (10) Working Days' notice in writing to the other if any one or more of the following events happens:
      1. except in respect of non-payment of Fees in accordance with this Agreement which shall be dealt with under clause 13.3, where the other party commits a material breach of any of its obligations which is incapable of remedy, where notice of the same has been given no less than twenty (20) Working Days previously;
      2. (in the case of such notice to be issued by the LCF General Partner) if any of the circumstances under any of clauses 17.1(g) - (o) (inclusive) or 17.1(t) - (w) (inclusive) of the Funding Agreement occurs due to the act(s) and/or omission(s) of the Investment Adviser;
      3. the other party fails to remedy, where it is capable of remedy, or persists in any breach of any of its obligations under this Agreement after having been required in writing to remedy or desist from such breach within a period of thirty (30) days;
      4. the other party proposes a voluntary arrangement within the meaning of section 1 or section 253 of the Insolvency Act 1986, or an interim order is made in relation to the other party under section 252 of the Insolvency Act 1986, or any other steps are taken or negotiations commenced by the other party or any of its creditors with a view to proposing any kind of composition, compromise or arrangement involving the other party and any of its creditors;
      5. the other party is deemed to be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or calls a meeting for the purpose of passing a resolution to wind it up, or such a resolution is passed, or a resolution is passed by the directors of the other party to seek a winding up or administration order, or the other party presents, or has presented, a petition for a winding up order, or presents, or has presented, a petition to appoint an administrator, or has an administrative receiver, or receiver appointed over all or any part of its business, undertaking, property or assets; and/or
      6. the Investment Adviser ceases for any reason to be authorised under FSMA to manage or operate the LCF General Partner or to perform any other duties and obligations of the Investment Adviser under this Agreement that require such authorisation.
   3. If the LCF General Partner does not pay the Fees in accordance with this Agreement the Investment Adviser may, following the date on which the thirty (30) day period allowed for payment of such Fees pursuant to clause 9.1 expired, issue a warning notice to the LCF General Partner which shall include the following:
      1. details of the Fees in respect of which the warning notice is issued, including a copy of any relevant invoice;
      2. the date on which the thirty (30) day period allowed for payment of such Fees pursuant to clause 9.1 expired; and
      3. the date on which this Agreement shall be capable of termination by the Investment Adviser, which shall be no less than twenty (20) Working Days after the date of the warning notice,

and following such date the Investment Adviser may (where such Fees remain unpaid) terminate this Agreement on no less than ten (10) Working Days' further notice to the LCF General Partner.

* 1. [If:
     1. a Relevant Agreement be terminated, the LCF General Partner shall be entitled to terminate this Agreement with immediate effect; and
     2. if this Agreement is terminated, the Investment Adviser acknowledges that the relevant counterparty shall be entitled to terminate the Relevant Agreement with immediate effect.]
  2. The termination or expiry of this Agreement shall be without prejudice to the rights and remedies of either party which may have accrued up to the date of such termination or expiry.
  3. On termination of this Agreement under the provisions of this clause 13 or on the expiry of this Agreement the Investment Adviser shall:
     1. be entitled to receive all Fees and other moneys accrued due up to the date of such termination or expiry (and prorated to the date of termination or expiry, where applicable) (but shall not be entitled to receive any exit fees and / or Project Developer Fees which have not been accrued at the date of termination or expiry);
     2. hand over to any new investment adviser or the LCF General Partner (as appropriate) all papers, documents and other property belonging to the LCF General Partner or relating to the LCF General Partner, Projects or Relevant Investments which the Investment Adviser or its nominees or delegates have in their possession or under their control pursuant to the matters referred to in this Agreement or the LCF Partnership Agreement (provided that the Investment Adviser may take and retain copies of any documents that it reasonably believes it is required to retain in order to comply with any FCA Rules or any other applicable rules or regulations applying to it) and the LCF General Partner shall return to the Investment Adviser any papers, documents and other property belonging to the Investment Adviser which the LCF General Partner has in its possession or under its control (provided that the LCF General Partner may take and retain copies of any papers and/or documents that it reasonably believes it is required to retain in order to comply with this Agreement, the LCF Partnership Agreement, any Applicable Requirements and/or the Contingent Loan Agreement);
     3. the Investment Adviser shall take all steps to vest in any new investment adviser for the account of the LCF General Partner any assets previously held in the name of or to the order of the Investment Adviser; and
     4. co-operate with the LCF General Partner and any new service provider(s) who shall provide services which replace the Services to the extent reasonably required in order to facilitate the smooth transition from provision of the Services by the Investment Adviser in accordance with this Agreement to provision of such services by the new provider(s).

1. Delegation
   1. Subject to receiving the prior written consent of the LCF General Partner, and complying with any applicable conditions stated in the AIFMD, the other Applicable Requirements and this Agreement, the Investment Adviser is authorised, in order to conduct its business efficiently, to delegate, under its responsibility and control, and with prior notification to the FCA, one or more of its functions and duties to any of its affiliate(s) or to one or more third parties (the **Delegates** and each a **Delegate**).
   2. The Investment Adviser shall only delegate its functions to Delegates, which, having regard to the nature of the functions and duties to be delegated, have sufficient resources to perform the respective tasks and hold the necessary authorisation and licence as may be required by Applicable Requirements and provided that the persons who effectively conduct the business of the Delegates are of sufficiently good repute and sufficiently experienced.
   3. The Investment Adviser shall procure that any person to whom it delegates any of its functions under this Agreement shall at all times comply with the provisions of this Agreement (insofar as they are relevant) and all relevant Applicable Requirements.
   4. In case of delegation of its functions, the Investment Adviser shall comply with all the conditions, limitations and requirements stated in the AIFM Requirements and other Applicable Requirements, including in particular:
      1. the prohibition for the Investment Adviser to delegate its functions to the extent that, in essence, it can no longer be considered to be the alternative investment fund manager of the LCF General Partner; and
      2. the obligation for the Investment Adviser to implement appropriate control mechanisms and procedures, including initial due diligences, risk management controls as well as regular on-going monitoring and reporting in order to ensure an effective supervision of the Delegates.
   5. A delegation by the Investment Adviser shall never prevent the effectiveness of supervision of the Investment Adviser and in particular shall not:
      1. prevent the Investment Adviser from acting or the Low Carbon Fund from being managed in the best interest of the Limited Partners;
      2. prevent the Investment Adviser from giving at any time additional instructions to the Delegates or from terminating the delegation of a function at any time provided that the Investment Adviser determines that such termination is in the interest of the Limited Partners.
   6. Without prejudice to the generality of the foregoing, the Investment Adviser shall:
      1. select and appoint Delegates and inform the LCF General Partner of the criteria it applies in such selection and appointment;
      2. review and monitor on an on-going basis the compliance by the Delegates with the AIFM Requirements and other Applicable Requirements and, in particular, with the investment restrictions as set out in Applicable Requirements and the LCF Partnership Agreement and all instructions which may from time to time be communicated by the LCF General Partner; and
      3. inform the LCF General Partner of the termination of the delegation to any Delegates by the Investment Adviser.
   7. The Investment Adviser's liability towards the LCF General Partner and its investors shall not be affected by the fact that it has delegated its functions and duties to any Delegate, or by any further sub-delegation. The Investment Adviser shall ensure that a Delegate may only sub-delegate any of the functions delegated to it, on condition that the Investment Adviser and the LCF General Partner have consented in writing and that the Investment Adviser has notified the FCA prior to the sub-delegation and that all the requirements of the AIFMD and other Applicable Requirements are complied with by the sub-delegate(s).
2. Relationship and Dispute Resolution
   1. The LCF General Partner and the Investment Adviser shall hold a review meeting on a quarterly basis or as agreed from time to time on reasonable notice to assess issues relating to the Services and the LCF General Partner including, but not limited to, the Investment Adviser's performance in accordance with this Agreement, either in person or by video conference or by telephone conference.
   2. It is the intention of the parties to settle amicably by negotiation or agreement any differences of opinion on matters of performance, procedure and management arising out of this Agreement.
   3. In the event of a disagreement or dispute arising out of this Agreement, the matter will be dealt with in the first instance by the LCF General Partner and the Investment Adviser, with a view to discussing and resolving any issues in good faith.
   4. If such good faith discussions fail to resolve the matter within twenty (20) Working Days, then the matter shall be escalated to such person as the LCF General Partner shall nominate and to such person as the Investment Adviser shall nominate, who shall meet as soon as reasonably practicable thereafter to resolve the dispute arising out of the Agreement. If the matter is resolved within twenty (20) Working Days then the dispute escalation process shall be deemed to have been concluded.
   5. If the matter fails to be resolved with the period of twenty (20) Working Days referred to in clause 15.4, the parties may attempt to settle it by mediation in accordance with the model mediation procedures (**Procedures**) published by the Centre for Effective Dispute Resolution, CEDR Solve (**Service Provider**). To initiate a mediation, a party must give notice in writing (**Mediation Notice**) to the other party in accordance with clause 24 (Notice).
   6. The parties will seek to agree the appointment of a mediator but, failing agreement within twenty (20) Working Days of the service of the Mediation Notice, any party may ask the Service Provider to nominate a mediator.
   7. In the event that there are no Procedures available for nominating a mediator and the Service Provider is unable or unwilling to nominate a mediator, any party may ask the president of the Law Society of England & Wales (or its successor) to nominate a mediator and to recommend a mediation procedure. The parties will accept such nomination under either this clause 15.7 or clause 15.6 and also the recommended mediation procedure.
   8. If the dispute is not resolved within forty (40) Working Days of the appointment of the Mediator, any party may commence proceedings in accordance with clause 27 (Law of the Contract).
   9. During the dispute escalation process described in this clause 15, neither party shall commence or continue any litigation or proceedings against the other in respect of the matter in dispute but the parties may commence or continue such litigation or proceedings in respect of the matter in dispute in the event that the dispute is not resolved within forty (40) Working Days of the appointment of the Mediator.
3. Force Majeure
   1. If either party is affected by Force Majeure it shall immediately notify the other party in writing of the matters constituting the Force Majeure and shall keep that party fully informed of their continuance and of any relevant change of circumstances whilst such Force Majeure continues.
   2. The party affected by Force Majeure shall take all reasonable steps available to it to minimise the effects of Force Majeure on the performance of its obligations under this Agreement.
   3. Force Majeure shall not entitle either party to terminate this Agreement and neither party shall be in breach of this Agreement, or otherwise liable to the other, by reason of any delay in performance, or non-performance of any of its obligations due to Force Majeure.
4. Data Protection
   1. With respect to the parties' rights and obligations under this Agreement, the parties agree that the LCF General Partner is the Controller and that the Investment Adviser is the Processor.
   2. The Investment Adviser shall (and shall procure that any subcontractor, or sub-processor, which processes data on behalf of the Investment Adviser shall) in relation to Personal Data:
      1. process the Personal Data only in accordance with instructions from the LCF General Partner (which may be specific instructions or instructions of a general nature as set out in this Agreement or as otherwise notified by the LCF General Partner to the Investment Adviser during the term of this Agreement), unless the Investment Adviser is required to do so otherwise by Law. If it is so required, the Investment Adviser shall promptly notify the LCF General Partner before Processing the Personal Data unless prohibited by Law;
      2. process the Personal Data only to the extent, and in such manner, as is necessary for the provision of a Project or as is required by Law or any Regulatory Body;
      3. not transfer Personal Data outside of the UK unless the prior written consent of the LCF General Partner has been obtained and the following conditions are fulfilled:
         1. the LCF General Partner or the Investment Adviser has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the Data Protection Act 2018) as determined by the LCF General Partner;
         2. the Data Subject has enforceable rights and effective legal remedies;
         3. the Investment Adviser complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the LCF General Partner in meeting its obligations); and
         4. the Investment Adviser complies with any reasonable instructions notified to it in advance by the LCF General Partner with respect to the Processing of Personal Data;
      4. take reasonable steps to ensure the reliability and integrity of any delegate or agent of the Investment Adviser and its or their directors, partners, members, officers and employees who have access to the Personal Data and ensure that they:
         1. are aware of and comply with the Investment Adviser's duties under this clause 17.2;
         2. are subject to appropriate confidentiality undertakings with the Investment Adviser, or any relevant subcontractor or sub-processor;
         3. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the LCF General Partner or as otherwise permitted by this Agreement; and
         4. have undergone adequate training in the use, care, protection and handling of Personal Data;
      5. implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
      6. before allowing any subcontractor or sub-processor to Process any Personal Data related to this Agreement:
         1. notify the LCF General Partner in writing of any intended subcontractor or sub-processor Processing;
         2. obtain the written consent of the LCF General Partner;
         3. enter into a written agreement with its subcontractor or the sub-processor which gives effect to the terms set out in this clause 17 such that they apply to its subcontractor or the sub-processor; and
         4. provide the LCF General Partner with such information regarding its subcontractor or the sub-processor as the LCF General Partner may reasonably require;
      7. notify the LCF General Partner (within five (5) Working Days) if it receives:-
         1. a request from a Data Subject to have access to that person's Personal Data; or
         2. a complaint or request relating to the LCF General Partner 's obligations under the Data Protection Legislation;
      8. provide all reasonable assistance to the LCF General Partner in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the LCF General Partner, include:
         1. a systematic description of the envisaged Processing operations and the description of the Processing;
         2. an assessment of the necessity and proportionality of the Processing operations in relation to the Services; and
         3. an assessment of the risks to the rights and freedoms of Data Subjects;
      9. taking into account the nature of the Processing, provide the LCF General Partner with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under this clause 17 (and insofar as possible within the timescales reasonably required by the LCF General Partner) including by promptly providing:
         1. the LCF General Partner with full details of the complaint, communication or request;
         2. such assistance as is reasonably requested by the LCF General Partner to enable the LCF General Partner to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
         3. providing the LCF General Partner, at its request, with any Personal Data it holds in relation to the Data Subject;
         4. assistance as requested by the LCF General Partner with respect to any request from the Information Commissioner's Office, or any consultation by the LCF General Partner with the Information Commissioner's Office; and
         5. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data;
      10. obtain prior written consent from the LCF General Partner in order to transfer the Personal Data to any contractors or affiliates for the provision of the Services;
      11. ensure that all Investment Adviser personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 17;
      12. ensure that no Investment Adviser personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the LCF General Partner;
      13. provide a written description of the technical and organisational methods employed by the Investment Adviser for Processing Personal Data (within the timescales required by the LCF General Partner);
      14. at the written direction of the LCF General Partner, delete or return Personal Data (and any copies of it) to the LCF General Partner on termination of this Agreement unless the Investment Adviser is required by Law to retain the Personal Data; and
      15. permit the LCF General Partner, or their representatives, to inspect and audit (subject to reasonable and appropriate confidentiality undertakings), the Investment Adviser's Processing activities (and/or those of its agents, subsidiaries and subcontractors) and comply with all reasonable requests or directions by the LCF General Partner to enable the LCF General Partner to verify and/or procure that the Investment Adviser is in full compliance with its Data Processing obligations under this Agreement.
   3. The Investment Adviser shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Agreement in such a way as to cause the LCF General Partner to breach any of its applicable obligations under the Data Protection Legislation.
5. Publicity
   1. The Investment Adviser shall at all times comply with:
      1. Articles 115 and Annex XII of Regulation 1303, as further referred to in Article 6(1)(b) of Regulation 480; and
      2. Chapter II and Annex II of Regulation 821;

and shall ensure that on entering into Project Documents the Qualifying Final Recipient is informed that the funding is co-financed by the European Regional Development Fund through the Low Carbon Fund.

* 1. The DLUHC has published the National European Regional Development Fund Publicity Guidance to assist the Investment Adviser to comply with the Regulations referred to in clause 18.1. This guidance is not compulsory and does not have to be followed as a condition of this Agreement. It is the Investment Adviser's sole responsibility to ensure compliance with the Regulations.

1. Security requirements
   1. The Investment Adviser shall, as an enduring obligation throughout the term of this Agreement, use the latest versions of anti-virus definitions available from an industry accepted ant-virus software vendor to check for and delete Malicious Software from the Information and Communications Technology Environment.
   2. Notwithstanding clause 19.1, if Malicious Software is found, the parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of the LCF General Partner Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.
   3. Any cost arising out of the actions of the parties taken in compliance with the provisions of clause 19.2 shall be borne by the parties as follows:
      1. by the Investment Adviser where the Malicious Software originates from the Investment Adviser Software, the Third Party Software or the LCF General Partner Data (whilst the LCF General Partner Data was under the control of the Investment Adviser); and
      2. by the LCF General Partner if the Malicious Software originates from the LCF General Partner Software or the LCF General Partner Data (whilst the LCF General Partner Data was under the control of the LCF General Partner).
2. Confidentiality
   1. The Investment Adviser shall at all times keep confidential and not disclose or use (except for the purposes of this Agreement and the LCF Partnership Agreement) confidential information about the LCF LP and its partners. However, the Investment Adviser may disclose such information if:
      1. it is independently developed without access to such confidential information;
      2. such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement;
      3. such information was in the possession of the Investment Adviser without obligation of confidentiality prior to its disclosure, or was obtained from a third party without obligation of confidentiality;
      4. the Investment Adviser is requested or required to do so by the FCA or any other regulatory authority or agency or by or under any law or court (where any such regulatory authority, agency, law or court has jurisdiction over the Investment Adviser) including any requirements for disclosure under the Freedom of Information Act 2000, 'Freedom of Information Code of Practice' or the Environmental Information Regulations 2004.
   2. The Investment Adviser may also, subject to such Associate, delegate or agent having accepted confidentiality obligations equivalent to those imposed on the Investment Adviser under this clause, disclose such information to any Associate, delegate or agent of the Investment Adviser and its or their directors, partners, members, officers and employees where such disclosure is necessary or desirable for providing its services under this Agreement.
3. Freedom of Information
   1. The Investment Adviser acknowledges that the Secretary of State, the GMCA, the LCF General Partner and/or the FoF General Partner may receive a Request for Information and may be obliged (subject to the application of any relevant exemption and, where applicable, the public interest test) to disclose information (including commercially sensitive information) pursuant to a Request for Information. The LCF General Partner shall notify the Investment Adviser as soon as reasonably practicable of such request, and where practicable, the LCF General Partner shall consult with the Investment Adviser before doing so in accordance with the relevant Code of Practice, provided that if the Investment Adviser fails to respond within five (5) days it shall be deemed to have no comments. Where the information to be disclosed is confidential information belonging to the Investment Adviser the LCF General Partner shall ensure that at the time of disclosure the information is marked as 'Confidential' or 'Restricted'. The Investment Adviser shall use its reasonable endeavours to respond to any such consultation promptly and within any deadline set by the LCF General Partner and acknowledges that it is for the LCF General Partner, GMCA, FoF General Partner and/or the Secretary of State (as applicable) to determine whether or not such information should be disclosed, and that the Secretary of State, the GMCA, the LCF General Partner and/or the FoF General Partner may be required to disclose information without prior consultation with the Investment Adviser.
4. Not used
5. Assignment

This Agreement is personal to the parties and neither of the parties may assign, transfer or novate any of their rights or obligations under this Agreement without the prior written consent of the other party.

1. Notice
   1. All notices (or other communication) to be given by one party to another under this Agreement shall be in writing and shall be served by hand or by being sent by prepaid first class post to the address of the addressee set out at the head of this Agreement (or to such other address as that party may, by notice given in accordance with this clause 24, communicate to the other party).
   2. Any such notice shall if so posted be deemed to be served two (2) days after posting and evidence that the notice was properly addressed stamped and put into the post shall be conclusive evidence of posting. Any notice served by hand shall be effective on receipt and failure to receive any confirmation shall not invalidate such notice.
2. General provisions
   1. No failure on the part of either party to exercise, and no delay on its part in exercising, any right to remedy under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law. Any waiver given shall only be valid if expressed to be a waiver and given in unequivocal terms and in writing.
   2. Any provision of this Agreement may be amended only if the parties so agree in writing.
   3. This Agreement contains the entire agreement between the parties in relation to its subject matter. Each party irrevocably and unconditionally waives any right it may have to claim damages for, and/or to rescind this Agreement because of breach of any warranty not contained in this Agreement, or any misrepresentation whether or not contained in this Agreement, unless such misrepresentation was made fraudulently.
   4. If at any time any part of this Agreement (including any one or more of the clauses of this Agreement or any sub-clause or paragraph or any part of one or more of these clauses) is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from this Agreement and the validity and/or enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired as a result of that omission.
   5. Nothing contained in this Agreement shall be construed or have effect as constituting any relationship of employer or employee between the parties to this Agreement, nor is it intended to nor shall create any partnership, joint venture or agency, the parties to this Agreement being with respect to one another independent.
   6. The Investment Adviser shall not be required to enquire as to whether the LCF General Partner has complied with the terms of the LCF Partnership Agreement or the Funding Agreement (to the extent such terms apply to the LCF General Partner). The Investment Adviser shall not be liable for any claims arising as a result of the action or inaction of the LCF General Partner in relation to the obligations of the LCF General Partner under the LCF Partnership Agreement or the Funding Agreement, except where arising as a result of the Investment Adviser's breach of this Agreement.
   7. This Agreement may be executed in one or more counterparts all of which taken together shall be deemed to constitute one and the same instrument.
3. Contracts (Rights of Third Parties) Act 1999

Except as expressly provided elsewhere in this Agreement, a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement, but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

1. Law of the Contract

This Agreement and any disputes or claims arising out of or in connection with it (whether contractual or non-contractual in nature, including claims in tort, for breach of statute or regulation or otherwise) shall be governed by and interpreted in accordance with English law. All disputes and claims arising out of or relating to this Agreement shall be subject to the non-exclusive jurisdiction of the English Courts to which the parties irrevocably submit.

**Executed as a deed** by the parties or their duly authorised representatives on the date of this Agreement.

2. Services

[Service specification provided with the ITT to be included here in signed agreement]

2. Investment Policy
3. [Investment policy provided with the ITT to be included here in signed agreement]
5. Fees

[To be populated to reflect fee proposal of winning bidder in accordance with the ITT]

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| --- | --- | --- |
| Signed by  duly authorised for and on behalf of  **Greater Manchester** **Low Carbon UDF (GP) Limited** acting as general partner on behalf of the **Greater Manchester Low Carbon UDF Limited Partnership** | ) |  |
| ) |  |
| )  )  ) |  |
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| Signed by  duly authorised for and on behalf of  **[Adviser]** | ) |  |
| ) |  |
| ) |  |
|  |  |  |

1. Only relevant if an adviser is responsible for advising on all these funds. [↑](#footnote-ref-1)