



Co-Mingling Fund Summary of Terms

This Summary of Terms has been prepared by Ashurst LLP based on laws, regulations and administrative and judicial interpretation as at 14 November 2013.

This Summary of Terms illustrates a summary of possible terms for future co-mingling funds in the United Kingdom which are focused on achieving positive social impact and which intend to raise capital both from investors focused on social impact and also from investors focused on financial return. It is based on certain restrictions and assumptions provided to Ashurst LLP.

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14 November 2013

CO-MINGLING FUND

This summary illustrates a set of principal terms that could be used for a theoretical fund (the "**Fund**") as described in the structure note dated on or around the date hereof. The Fund would subscribe for debt, equity and debt/equity hybrid investments ("**Investments**") in certain ventures that intend to achieve a positive social impact through their activities and which would commit to report to the Fund on such impact. This summary is provided for information only, and is not intended to illustrate the terms for any specific fund.

Fund Structure The Fund would comprise an English limited partnership registered under the Limited Partnerships Act 1907 (the "**Partnership**"), together with any feeder vehicles as the General Partner may determine in its sole discretion.

The Fund may establish such subsidiary vehicles as the General Partner may determine in its sole discretion for the purpose of making and holding investments.

General Partner The general partner of the Partnership (the "**General Partner**") would receive the General Partner's Profit Share as described below.

Manager The General Partner would appoint a discretionary operator and manager of the Fund (the "**Manager**"). The Manager would be entitled to a management fee, payable by the General Partner out of the General Partner's Profit Share, pursuant to an investment management agreement between the General Partner and the Manager (the "**Management Agreement**").

The Manager would be authorised and regulated by the Financial Conduct Authority for the activity of "Managing an AIF" such as the Partnership in the United Kingdom.

Investment Objective The objective of the Fund would be to achieve both investment returns and a social impact through making, holding and realising debt, equity and debt/equity hybrid investments (each an "**Investment**") in certain ventures which intend to achieve a positive social impact through their activities and which would commit to report to the Fund on such impact (each a "**Portfolio Venture**").

Each Portfolio Venture would be likely to carry on a significant proportion of its activities in the UK.

Investors' Commitments and Partnership Interests Each investor in the Fund (an "**Investor**") would make an investment commitment denominated in pounds sterling to the Partnership (a "**Commitment**").

The minimum size of a Commitment would be £50,000 for Investors subscribing only for B Interests (as defined below) and £100,000 for all other Investors, although the Manager would have the right in its absolute discretion to accept Commitments of a lesser amount.

Each Investor's Commitment would comprise a capital contribution equal to 0.01% of such Commitment and a non-interest bearing advance equal to 99.99% of such Commitment. The capital contribution would be payable on admission of the Investor as a limited partner and would not be repaid until termination of the Partnership. The advance would be drawn down by the Partnership from the Investor in such amounts and at such times as the Manager may determine on not less than 10 business days' notice.

Investors' interests in the Partnership would be categorised as "A Interests" and/or "B Interests". Such interests would entitle the Investor to any

distributions of the Partnership on the basis described at "Distributions" below. The Manager will ensure the aggregate Commitments in respect of B Interests comprise at least [●]% of total aggregate Commitments.

Commitments which have been drawn down and repaid to Investors could be redrawn from Investors in certain circumstances as would be set out in the Partnership Agreement.

Fund Closings and Closing Adjustments

Investors would be admitted to the Fund at one or more closings. The first closing of the Fund (the "**First Closing**") would take place as soon as practicable and further closings to admit additional Investors (each a "**Subsequent Closing**") could then take place for up to 18 months after the date of the First Closing (such date being the "**Final Closing Date**").

At each Subsequent Closing an amount would be drawn down from the Commitment of each Investor admitted at that Subsequent Closing (a "**Subsequent Investor**") equal to the aggregate of all amounts that would have been drawn down from that Subsequent Investor had it and all other Subsequent Investors been admitted to the Partnership at the First Closing (other than any amounts drawn in respect of any fully-realised Investment).

In addition, each such Subsequent Investor would pay a premium equal to interest calculated at an annual rate of LIBOR plus [●] per cent. on the amount so drawn down.

These provisions would also apply to an Investor that increased its Commitment at a Subsequent Closing, to the extent of such increase.

Investment Period

The Manager would be able to draw down Commitments to fund new Investments from the date of the First Closing until the earliest of:

- (a) the fifth anniversary of the date of the First Closing, subject to an extension of up to two years by the Manager with the approval of an Investor Consent (as described at "Investor Consents" below);
- (b) such date as would be determined by the Manager provided that an amount equal to at least 75% of the Commitments had been drawn down or contractually committed to Investments;
- (c) such date as would be determined by the Manager with the approval of an Investor Consent;
- (d) such date following the Final Closing Date upon which all Commitments (excluding the Commitment of any defaulting Investor) had been drawn down and were no longer available for re-drawing; and
- (e) such date on which the Manager would determine in good faith that changes in applicable law, taxation, regulation or business conditions mean that termination of the Investment Period was necessary or advisable in the interests of the Fund,

(such period being the "**Investment Period**").

Following the end of the Investment Period, the Manager would not be able to draw down Commitments for the purpose of funding new Investments other than (i) follow-on Investments into existing Portfolio Ventures where the aggregate amount of such follow-on Investments made by the Fund after the end of the Investment Period would not exceed 25% of aggregate Commitments and (ii) Investments that had been contractually committed to

or that had been in the course of negotiation or for which the Fund had been granted exclusivity during the Investment Period.

- Defaults** If an Investor was to default in respect of a drawdown notice then, unless it promptly remedied that default and paid interest of [●] per cent. above LIBOR in respect of the default amount, it may be liable for one or more sanctions as would be set out in the Partnership Agreement as determined by the Manager in its absolute discretion, and which would include having its interest in the Partnership compulsorily sold to one or more of the other Investors or third parties or having its interest forfeited (save in respect of any previously drawn down Commitment for which special terms would apply).
- Diversification** No more than 15% of Commitments would be able to be invested in any single Portfolio Venture without the consent of the Advisory Committee.
- Borrowing** Borrowings would only be made by the Partnership under a bridging facility where the principal amounts borrowed were outstanding for no more than 6 months. The Partnership would be able to enter into such a facility with any member of the Manager's group provided that such facility was entered into on arm's length terms.
- General Partner's Profit Share** The General Partner would be entitled to a priority profit share (the "**General Partner's Profit Share**") in respect of each Investor equal to:
- (a) during the Investment Period, [●]% per annum of the Commitment of that Investor; and
 - (b) after the Investment Period, [●]% per annum of that Investor's share of the aggregate outstanding acquisition costs of Investments (not including Investments which had been realised or fully and permanently written off).
- Expenses** The Partnership would bear its own establishment costs up to the amount of £[●] plus any applicable VAT.
- The Partnership would bear all costs and expenses (including any applicable VAT) directly or indirectly related to the business and operations of the Partnership other than the day-to-day normal overhead expenses of the General Partner, the Manager and the Administrator and their associates (including for the avoidance of doubt the costs of their respective employees, office accommodation and other similar overheads).
- The remuneration of the Manager and the Administrator and the Social Impact Advisor (as described below) would be for the account of the General Partner.
- Distributions** After deducting or providing for such liabilities as the Manager may determine, such assets of the Fund as are available for distribution by the Partnership would be distributed as between the Investors pro rata to their respective shares of the relevant Partnership assets but subject to the following order of priority:
- (a) to the General Partner in satisfaction of the General Partner's Profit Share in respect of each such Investor (to the extent not already satisfied by previous distributions); and then
 - (b) in relation to such Partnership assets which represent income or

capital profits, to the Investors holding A Interests and B Interests; or

- (c) in relation to such Partnership assets which represent capital returns, in the following order of priority:
 - (i) to the Investors holding A Interests in an amount equal to their drawn down Commitments which then remain outstanding after taking into account all distributions then made to those Investors; and then
 - (ii) to the Investors holding B Interests in an amount equal to their drawn down Commitments which would remain outstanding after taking into account all distributions then made to those Investors, but excluding their share of any distributions made pursuant to (b) above where such distributions were not taken into account pursuant to (i) above; and then
 - (iii) to the Investors holding A Interests and B Interests.

Tax Deductions In calculating the amount of any distributions to an Investor an amount equal to any tax deducted or withheld or required to be deducted or withheld from income and gains allocated to such Investor (whether deducted or withheld by the Partnership, a Portfolio Venture or their agents) would be treated as distributed to such Investor, along with any costs, expenses or taxation payable by such Investor to the extent that such costs had been borne by the Partnership, the General Partner, the Manager or any of their associates.

Frequency Assets of a capital nature which would be available for distribution would generally be distributed as soon as practicable following receipt. Assets of an income nature would generally be distributed semi-annually.

Transaction and Other Fees Any transaction fees, underwriting fees, abort fees, monitoring fees or other fees directly referable to Investments of the Partnership which were received by the Manager would be offset against the General Partner's Profit Share on the basis as would be described in the Partnership Agreement.

Term of Partnership The business of the Partnership would terminate on the earliest of:

- (a) the tenth anniversary of the date of the First Closing, subject to an extension of up to two years so as to permit the orderly winding up of the business of the Partnership if so required by the Manager with the approval of the Advisory Committee;
- (b) the date of any bankruptcy, insolvency, dissolution or liquidation of the General Partner or the Manager;
- (c) such date as the Manager determined with the approval of an Investor Special Consent;
- (d) such date as the Manager determined in the event of a change of law which, in the opinion of the Manager, made the continuation of the business of the Partnership unlawful, impracticable or inadvisable;
- (e) the date of termination of the Management Agreement except where a replacement Manager had been appointed; and
- (f) the date of any fault termination or no fault termination by the

Investors as described below.

If the Partnership would otherwise terminate in accordance with (b), (e) or (f) above, the Investors may be able to require by an Investor Special Consent that the then current General Partner and Manager are removed, a substitute General Partner and Manager are appointed and that the Partnership should continue on the terms as would be set out in the Partnership Agreement.

No-Fault Termination

Investors would be able, on 12 months' notice, to terminate the Partnership by an Investor Special Consent at any time following the date one year after the First Closing.

Fault Termination

Investors would be able to terminate the Partnership by an Investor Special Consent at any time by serving notice on the General Partner in the event of the following:

- (a) the General Partner or the Manager had breached the terms of the Partnership Agreement or the Management Agreement, respectively, where such breach materially and adversely affected the Partnership and had not been remedied within 30 days of written notice of such breach being served on the General Partner or the Manager as appropriate;
- (b) the fraud of the General Partner or Manager in connection with the operation of the Partnership;
- (c) the gross negligence, wilful illegal act, wilful default, bad faith or professional misconduct of the General Partner or the Manager in connection with the operation of the Partnership which materially and adversely affected the Partnership; or
- (d) the granting of a preliminary or permanent injunction or the making of any order, judgment, or decree or other determination of any court or regulatory authority of competent jurisdiction against the General Partner or the Manager which materially and adversely affected the Partnership,

provided that if the General Partner disputed such notice, the Partnership would only terminate where a determination had been made by expert opinion that the event mentioned in the notice had occurred.

Transfer of Interests

Investors would only be able to transfer their interests in the Partnership with the prior written consent of the Manager which would be able to be given or withheld in its sole discretion.

Reports

The Manager would prepare and send to each Investor an unaudited report comprising a statement of the Investments and other Fund assets, details of Investments made, realised or otherwise disposed of during the relevant period, the cost and current valuation of each Investment and an unaudited balance sheet, profit and loss account and cash flow statement for the Partnership within 60 days of the end of each period of six months ending on the last days of March and September.

The Manager would send to each Investor:

- (a) an independent report on the social impact of the Fund covering the investment decision-making processes, monitoring and evaluating as compared to best practice, and reporting on the social impact

generated; and

(b) audited financial statements,

annually within 90 days of the last day of March.

**Advisory
Committee**

An advisory committee (the "**Advisory Committee**") would be established comprising individuals nominated by certain Investors to whom a right of nomination had been given by the Manager. The Advisory Committee would meet at such times as it may determine or as requested by the Manager to review the investment performance of the Fund and any potential conflicts of interest brought to its attention by the Manager.

**Exclusion of
Liability,
Indemnification**

The General Partner, the Manager, other members of the Manager's group, their respective officers, employees and agents and members of the Advisory Committee (each an "**Indemnified Party**") would have no liability for, and would be indemnified out of Fund assets in respect of, any claims, costs, liabilities, damages or expenses (including legal fees) incurred in connection with the Fund except as a result of their gross negligence, fraud, wilful illegal act, bad faith or material breach of the Partnership Agreement or Management Agreement (or in the case of members of the Advisory Committee except as a result of their fraud or bad faith).

**Most Favoured
Nation and Side
Letters**

The Partnership or the General Partner would be able, without any further approval of the Investors, to enter into side letters or other agreements with Investors which would have the effect of establishing rights under, or altering or supplementing the terms of the Partnership Agreement.

The benefit of any preferential terms offered to an Investor would be offered to other Investors to the extent that such terms are reasonably applicable to such Investors, and subject to the satisfaction of any conditions on which such terms were originally granted including as to the size of the Investor's Commitment.

Amendments

The Partnership Agreement would be able to be amended in whole or in part by the General Partner with the approval of an Investor Special Consent, subject to special provisions in the case of certain amendments as would be set out in the Partnership Agreement.

**Meetings and
Consents**

The Manager would be able to convene meetings of the Partners from time to time, and would convene an annual general meeting of the Partners on not less than 15 business days' notice to be held within 120 days of the end of each accounting period, at which the Manager would report on the progress of the Fund.

The Manager would also call such a meeting of the Investors and General Partner on the written request from Investors representing 20 per cent. or more of aggregate Commitments.

**Investor
Consents and
Investor Special
Consents**

An "**Investor Consent**" would mean the consent of Investors representing over 50% of Commitments to the Partnership, and an "**Investor Special Consent**" would mean the consent of Investors representing at least 75% of Commitments to the Partnership (excluding in either case any Commitment held by a member of the Manager's group and/or its executives and any Commitment made by a defaulting Investor that had been disenfranchised in accordance with the Partnership Agreement) and subject to class right protections as would be set out in the Partnership Agreement.

An Investor would be entitled to split its Commitment for the purposes of any such consent so as to give its consent in respect of part of its Commitment and withhold its consent in respect of the balance.

Auditors Auditors appointed by the Manager from time to time would be the auditors to the Fund.

Social Impact Advisor An advisor appointed by the Manager from time to time, would be appointed to report to the Investors on the social impact of the Portfolio Ventures.

Governing Law The Partnership Agreement would be governed by English law.