

## **FUND MANAGEMENT AGREEMENT**

entered into between

### **ACN CAPITAL IHC PROPRIETARY LIMITED**

(Registration Number 2009/017511/07) (FSP 41196)

(**Fund Manager**)

and

### **ASCENDIS HEALTH LIMITED**

(Registration Number 2008/005856/06)

(**Client**)

## 1 INTERPRETATION AND DEFINITIONS

The headings of the clauses in this agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this agreement nor any clause hereof. Unless a contrary intention clearly appears:

- 1.1 words importing:
  - 1.1.1 any one gender include the others;
  - 1.1.2 the singular include the plural and *vice versa*; and
  - 1.1.3 natural persons include created entities (corporate or unincorporate) and the state and *vice versa*;
- 1.2 the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely:
  - 1.2.1 “**Administrator**” means the administrator appointed from time to time by or on behalf of the Client in respect of the Portfolio, provided that if at any time no administrator has been so appointed, then all references to the Administrator in this agreement shall be construed as being a reference to the Fund Manager (who shall provide the relevant administration services in-house);
  - 1.2.2 “**Applicable Laws**” means the FAIS Act, the FSRA, the Financial Institutions (Protection of Funds) Act 27 of 2001, the FMA, and any other legislation (including subordinate legislation) applicable to the management of the Investments in terms of this agreement;
  - 1.2.3 “**Authorised Representative**” means a person authorised as contemplated by the FAIS Act to represent the Fund Manager in providing financial services;
  - 1.2.4 “**Business Day**” means a day other than a Saturday, Sunday or public holiday in South Africa;
  - 1.2.5 “**Carl Neethling**” means André Carl Neethling, identity number 7908305093087;
  - 1.2.6 “**Client**” means Ascendis Health Limited, registration number 2008/005856/06, a public company duly incorporated in accordance with the laws of South Africa;

- 1.2.7            "**Companies Act**" means the Companies Act 71 of 2008;
- 1.2.8            "**CPI**" means the annual rate of change of the headline "*Consumer Price Index*" published by Statistics South Africa from to time, expressed as a percentage;
- 1.2.9            "**Effective Date**" means the day immediately following the delisting of the Client from the Johannesburg Stock Exchange, or such earlier date as agreed between the Client and the Fund Manager, being the date on which this agreement becomes effective, notwithstanding the Signature Date;
- 1.2.10          "**Exchange**" has the meaning ascribed to that term in section 1 of the FMA, and also includes an "external exchange" as that term is defined in section 1 of the FMA;
- 1.2.11          "**Excluded Expenses**" means -
- 1.2.11.1                all reasonable travelling and lodging expenses reasonably incurred by the Fund Manager in performing its services contemplated in this agreement;
- 1.2.11.2                all costs incurred in respect of the rendering of company secretarial services, including but not limited to fees paid to the Companies and Intellectual Property Commission; and
- 1.2.11.3                all Management Expenses;
- 1.2.12          "**FAIS Act**" means the Financial Advisory and Intermediary Services Act 37 of 2002 and all regulations, codes and notices thereunder;
- 1.2.13          "**Financial Product**" shall bear the meaning ascribed thereto in section 1 of the FAIS Act;
- 1.2.14          "**FMA**" means the Financial Markets Act 19 of 2012;
- 1.2.15          "**FSRA**" means the Financial Sector Regulation Act 9 of 2017;
- 1.2.16          "**Fund Manager**" means ACN Capital IHC Proprietary Limited, registration number 2009/017511/07, a private company duly incorporated in accordance with the laws of South Africa and an authorised financial services provider (FSP 41196);

- 1.2.17 "**Hurdle Amount**" means, with respect to the disposal of any Investment of the Client, the Realisation Proceeds that would result in the shareholders of the Client receiving an amount (either distributed or retained) equal to or exceeding the Required Value Return or the Relative Proportionate Return, as the case may be should the Realisation Proceeds are distributed to the shareholders of the Company, before dividend withholding tax;
- 1.2.18 "**Investment Objectives and Restrictions**" means the investment guidelines and restrictions set out in Annexure A and as replaced and amended from time to time;
- 1.2.19 "**Investments**" means, collectively, all the investments made by the Fund Manager on behalf of the Client, including shares and other securities of, or relating to, and loans (whether secured or unsecured) made to any other entity, plus all assets held by the Client at the Effective Date including but not limited to all subsidiaries, associates and joint ventures of the Client;
- 1.2.20 "**Management Expenses**" means all direct costs and expenses incurred by the Fund Manager in performing management services to the Portfolio Companies which, in the ordinary course of business, would be performed by an employee of such Portfolio Company and which are not included in the services contemplated in this agreement;
- 1.2.21 "**Management Fee**" means the fee payable by the Client to the Fund Manager as contemplated in Annexure B;
- 1.2.22 "**MOI**" means the *Memorandum of Incorporation* constituting the Client, including the schedules and Rules (as defined in section 1 of the Companies Act) thereto (as amended from time to time);
- 1.2.23 "**Operational Expenses**" means the Fund Manager's overhead expenses in the ordinary course of business, including but not limited to compensation for employees, rent and utilities, costs of compliance relating to its management business generally and fees paid to professional organisations or advisors;
- 1.2.24 "**Parties**" means the Client and the Fund Manager and "**Party**" shall mean any one of them as the context may indicate;

- 1.2.25        "**Portfolio**" means the portfolio or portfolios comprising the group or groups of Investments (or any portion thereof as the context may indicate) managed and administered from time to time by the Fund Manager on behalf of the Client in terms of this agreement;
- 1.2.26        "**Portfolio Company**" means a company, body corporate or other entity in which the Client owns an Investment;
- 1.2.27        "**Profit Amount**" means, with respect to the disposal of any Investments of the Client, the amount by which the Realisation Proceeds of that disposal exceed the Hurdle Amount of that Investment;
- 1.2.28        "**Realisation Proceeds**" means the aggregate net proceeds after deducting capital and/or income taxes payable as a direct result of the disposal of an Investment that would be received by or accrue to the Client if any of the Investments was realised or disposed of at a particular time;
- 1.2.29        "**Relative Proportionate Return**" means in respect of the Required Value Return of a specific Investment, the relative value of that Investment in relation to all the Investments of the Client which value shall be calculated based on the independent fair and reasonable assessment published in the circular proposing the delisting of the Client;
- 1.2.30        "**Required Value Return**" means the aggregate market capitalisation of the Client at the Effective Date plus the annualised Required Return (10% per year);
- 1.2.31        "**Signature Date**" means the date on which this agreement is signed by the last party to do so; and
- 1.2.32        "**Suspensive Conditions**" - the suspensive conditions stipulated in 3;
- 1.3            the terms "*subsidiary*" and "*holding company*" bear the meanings attributed to them in the Companies Act.
- 1.4            any reference to an enactment is to that enactment as at the Signature Date and as amended or re-enacted or replaced from time to time;

- 1.5 any reference in this agreement to any other agreement or document copy shall be construed as a reference to such other agreement as same may have been, or may from time to time be, amended, varied, novated or supplemented;
- 1.6 if any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of this agreement;
- 1.7 when any number of days is prescribed in this agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which case the last day shall be the next succeeding Business Day;
- 1.8 in the event that the day for payment of any amount due in terms of this agreement should fall on a day which is not a Business Day, the relevant day for payment shall be the preceding Business Day;
- 1.9 any reference to a party includes that party's successors-in-title and permitted assigns;
- 1.10 expressions defined in this agreement shall bear the same meanings in schedules or annexures to this agreement which do not themselves contain their own definitions;
- 1.11 where any term is defined within the context of any particular clause in this agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this agreement, notwithstanding that that term has not been defined in this interpretation clause;
- 1.12 the expiration or termination of this agreement shall not affect such of the provisions of this agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this;
- 1.13 the rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply;

- 1.14 any reference in this agreement to a party shall, if such party is liquidated or sequestrated, be applicable also to and binding upon that party's liquidator or trustee, as the case may be.

## 2 INTRODUCTION

The Client wishes to appoint the Fund Manager as the Client's discretionary financial services provider in respect of the Portfolio and the Fund Manager wishes to accept such appointment. The terms and conditions of the appointment are set out in this agreement.

## 3 CONDITIONS PRECEDENT

- 3.1 This whole agreement (other than 1, this 3 and 17 to 22 (both inclusive), by which the Parties shall be bound with effect from the Signature Date) is subject to the suspensive conditions ("**Suspensive Conditions**") that, on or before 30 April 2024, -
- 3.1.1 the delisting of the Client from the main board of the Johannesburg Stock Exchange has been implemented;
- 3.1.2 the shareholders of the Client have approved the conclusion and implementation of this Agreement; and
- 3.1.3 the Takeover Regulation Panel have approved the conclusion and implementation of this Agreement, if required.
- 3.2 Each Party shall use reasonable endeavours to procure the fulfilment of the Suspensive Conditions as soon as practically possible after the Signature Date.
- 3.3 The Suspensive Condition/s referred to -
- 3.3.1 in 3.1.3, being regulatory in nature, may not be waived; and
- 3.3.2 in 3.1.1 to 3.1.2 (both inclusive) are expressed to be for the benefit of both Parties and may therefore not be waived other than by written agreement between them.
- 3.4 If the Suspensive Conditions are not fulfilled for any reason whatever, or not waived in terms of 3.3, then -

- 3.4.1 this whole agreement (other than 1, this 3 and 17 to 22 (both inclusive), by which the Parties shall remain bound) shall be of no force or effect;
- 3.4.2 the Parties shall be entitled to be restored as near as possible to the positions in which they would have been, had this agreement not been entered into; and
- 3.4.3 neither Party shall have any claim against the other in terms of this agreement except for such claims (if any) as may arise from a breach of this 3 or from any other provision of this agreement by which the Parties remain bound.

#### **4 APPOINTMENT**

- 4.1 The Fund Manager is an authorised financial services provider and as such is regulated by the FAIS Act.
- 4.2 The Independent Board of directors, as appointed by the board of directors of the Client for the purposes of managing the delisting process hereby appoints the Fund Manager as the Client's discretionary financial services provider in respect of the Portfolio with effect from the Effective Date, which appointment the Fund Manager hereby accepts.
- 4.3 The Fund Manager undertakes to fulfil its obligations in terms of this agreement in the utmost good faith and to act in the interest of the Client at all times.
- 4.4 All income, profit and loss resulting from the Portfolio shall be for the account of the Client.

#### **5 SERVICES TO BE RENDERED BY THE FUND MANAGER**

- 5.1 Subject to the provisions of this agreement and Applicable Laws, the Client hereby authorises the Fund Manager to administer and manage the Portfolio by buying, selling or otherwise dealing with the Investments in its professional discretion.
- 5.2 The Fund Manager shall render the following services in terms of this agreement:
- 5.2.1 monitor and implement the investment strategy as approved by the board of directors of the Client;
- 5.2.2 perform all functions related to the position of chief executive officer of the Client;



- 5.2.3 actively manage the Client's Portfolio Companies and implement value creation initiatives, which focus generating superior risk adjusted returns for the Client;
  - 5.2.4 analyse and investigate current and potential Portfolio Companies, including but not limited to their products, services, markets, risks, management, financial situation, and competitive position and implementing improvements thereon, on behalf of the Client;
  - 5.2.5 analyse and investigate potential disposals of Investments, including identification of potential acquirers and evaluation of offers made by such potential acquirers and advising the Client thereon, for the purpose of active value creation and return of value to shareholders;
  - 5.2.6 structure and implement mergers and acquisitions of Investments and disposals of Investments;
  - 5.2.7 distribute and invest the Client's financial resources to maximise shareholders' equity, to increase efficiency and maximise profits;
  - 5.2.8 identify bank and institutional sources of financing, arrangement of appropriate introductions and marketing of financing proposals;
  - 5.2.9 supervise the preparation and review of all documents required in connection with the acquisition, disposal or financing of each Investment; and
  - 5.2.10 monitor the performance of Portfolio Companies and, where appropriate, provide advice to the management of the Portfolio Companies during the life of the relevant related Investment.
- 5.3 In rendering the services contemplated in clause 5.2, the Fund Manager shall have the power and authority to:
- 5.3.1 exercise any voting power that the Client may hold in respect of Securities or other Investments held by it;
  - 5.3.2 use the services of its own staff or that of another authorised financial services provider to assist it to perform its obligations under this agreement;

- 5.3.3 appoint one or more Authorised Representatives to represent it in the performance of its obligations under this agreement and delegate all or any of its powers and authorities in terms of this agreement to such Authorised Representative;
- 5.3.4 do whatever shall be necessary or desirable for the due performance of its obligations under this agreement.
- 5.4 In providing the services contemplated in this agreement, the Fund Manager shall:
  - 5.4.1 devote to the Client such time as is necessary to conduct the business and affairs of the Client in the best interests of the Client, provided that Carl Neethling will avail himself for the role of CEO of the Client for a duration of 2 (two) years from the date of delisting of the Client from the main board of the Johannesburg Stock Exchange;
  - 5.4.2 devote sufficient time of the key team members of the Fund Manager to the Client to -
    - 5.4.2.1 execute the strategy of the Client as approved by the board of directors of the Client;
    - 5.4.2.2 perform active portfolio management functions;
    - 5.4.2.3 continue to wind down head office costs; and
    - 5.4.2.4 actively investigate opportunities to restructure the Portfolio Companies with the aim to decrease costs and increase efficiencies to existing cost structures of the Client;
  - 5.4.3 to at all times act with integrity and good faith and exercise skill, care and diligence in the performance of its obligations under this agreement; and
  - 5.4.4 comply with and adhere to the provisions of all Applicable Laws.

## 6 REGISTRATION AND CUSTODY ARRANGEMENTS

- 6.1 Subject to Applicable Laws, Investments in the Portfolio (excluding those Investments not capable of registration) shall be registered in the name of the Client, or, alternatively, in the name of a securities depository "*participant*" as defined in the FMA or its nominee

company, or in the name of a nominee company agreed between the Client and the Fund Manager.

6.2 The Fund Manager shall have no responsibility or liability with respect to the transmission or safe-keeping of Investments or the acts or omissions of the custodian or others with respect thereto; provided that:

6.2.1 the Fund Manager shall exercise its reasonable judgement in appointing the custodian; and

6.2.2 the Fund Manager shall be liable for, and shall indemnify the Client in respect of, any such loss or damage which arises as a result of the fraud, dishonesty or gross negligence of the Fund Manager or any director, employee, officer, or agent of the Fund Manager.

## **7 INVESTMENT OBJECTIVES AND RESTRICTIONS**

7.1 It is the primary objective of the Fund Manager to initially divest all mature (ex-growth) Portfolio Companies of the Client where attractive returns can be achieved and return the available capital to the shareholders of the Client.

7.2 The Fund Manager shall manage the Portfolio in accordance with the Investment Objectives and Restrictions. The Fund Manager shall be obliged to comply with and adhere to the Investment Objectives and Restrictions in performing its services in terms of this agreement.

7.3 The Client shall advise the Fund Manager timeously and in writing of all statutory and other limitations which may apply to the Client and of any proposed amendments to the Investment Objectives and Restrictions.

7.4 Investments will be realised:

7.4.1 On the Client's written instructions or as soon as reasonably possible after receipt of written notification or;

7.4.2 where the Fund Manager (subject to compliance with this agreement) believes that the Client would be better served by disinvestment at that particular time.

7.5 The Client and the Fund Manager agree that the Investment Objectives and Restrictions accurately state the investment objectives and policies of the Client as at the date of this agreement. If, at any time during the term of this agreement, the Client proposes any change to the Investment Objectives and Restrictions, the Client shall give the Fund Manager at least 3 months advance written notice of such change.

7.6 The Client acknowledges that the Fund Manager does not warrant, and will not be liable for, the success or failure of any Investment made by the Fund Manager, whether in accordance with the Fund Manager's recommendations or not, or for the achievement by any Investment of any particular returns or capital growth or other particular performance result.

## 8 FEES AND EXPENSES

8.1 The basis on which, the manner in which and the intervals at which the Client will remunerate the Fund Manager for the services rendered by the Fund Manager to the Client in terms of this agreement are set out in Annexure B.

8.2 Save as is otherwise provided in Annexure B, the Client shall be liable for any fees, costs and expenses reasonably incurred by the Fund Manager that constitute Excluded Expenses and including the following expenses incurred in connection with the Investments:

8.2.1 securities transfer tax, taxes, government charges, brokerage fees, commissions, penalties, transfer fees, registration fees, banking charges, professional (legal, tax and accounting) fees, consultancy fees and other charges payable in respect of the acquisition or realisation of Investments or in respect of income arising on Investments;

8.2.2 interest on and charges and expenses of arranging, or arising out of, all or any borrowings made for the account of the Client in terms of this agreement;

8.2.3 any charges or expenses of the custodian, administrator or other service providers; and

8.2.4 any charges, expenses or premiums in connection with safe custody insurance in respect of any Investment;

8.2.5 any charges or expenses in connection with valuations of Investments;

8.2.6 any other expenses relating to the maintenance of the Client or its portfolio.

8.3 For the avoidance of doubt, the Management Fee paid to the Fund Manager as contemplated in Annexure B shall be inclusive of the remuneration costs payable to Carl Neethling in his capacity as the chief executive officer of the Client.

## 9 VALUATIONS

9.1 Investments shall be valued by the Fund Manager and approved by the Board of directors of the Client, in terms of the Client's approval process. The valuation principles will not deviate materially from the principles set out in the International Private Equity and Venture Capital Valuation (IPEV) Guidelines. The valuations will have no bearing on any fees of incentives payable to the Fund Manager.

## 10 PROHIBITION FROM SELLING OR BUYING CERTAIN INVESTMENTS

10.1 The Fund Manager shall:

10.1.1 neither directly nor indirectly without the prior written approval of the Client knowingly take a position against the Client;

10.1.2 where it exercises its voting rights on behalf of the Client, not exercise such voting rights to gain control, directly or indirectly, of any listed or unlisted company, except where such voting rights are exercised to protect the interest of, or on the instructions of, the Client.

## 11 REPORTING TO CLIENT

11.1 The Fund Manager shall keep accounts or procure that the Administrator keeps accounts in respect of the Portfolio in such a manner as to establish clearly all transactions entered into with or on behalf of the Client, and shall distinguish all transactions in such a manner as can be readily understood and shall fairly represent the state of the affairs of the Portfolio.

11.2 The Fund Manager shall or shall procure that the Administrator on reasonable request by the Client or at such intervals as may be agreed between the Fund Manager and the

Client, which may not exceed three months at a time, provide the Client with a report in respect of the Portfolio.

- 11.3 The Fund Manager shall provide such report to the Client in electronic format.
- 11.4 The report shall contain sufficient information to enable the Client to:
  - 11.4.1 produce a set of financial statements;
  - 11.4.2 determine the composition of the assets comprising the Portfolio and the changes therein over the period reported on; and
  - 11.4.3 determine the market value of the assets comprising the Investments and the changes therein over the period reported on.
- 11.5 On request by the Client, the Fund Manager shall or shall procure that the Administrator shall, furnish detailed information to the Client in respect of the following matters:
  - 11.5.1 the original cost of the Investment held (where appropriate), as well as the latest valuation thereof (where deemed necessary);
  - 11.5.2 Investments purchased or sold during the period reported on;
  - 11.5.3 cash receipts and payments during the period reported on;
  - 11.5.4 income earned and expenses incurred during the period reported on;
  - 11.5.5 tax information necessary for the completion of any relevant tax returns;
  - 11.5.6 details of non-cash transactions during the period, including, without limiting the generality of the foregoing, details of capitalisation issues, script dividends and option expiries;
  - 11.5.7 Investments received or delivered to the Client or custodian;
  - 11.5.8 profits and losses realised during the period; and

- 11.5.9 any other information which the Fund Manager is required by Applicable Law to furnish to the Client or which may be reasonably requested by the Client.
- 11.6 The Fund Manager shall make available or instruct the custodian to make available for inspection by the auditors of the Client such investment records as they may require for the purposes of audit and verification of the Investments comprising the Portfolio.

## 12 RISK AND LIABILITY

- 12.1 The Client expressly acknowledges and confirms:
- 12.1.1 that it understands and is aware of the various risks that are involved in holding the Investments and in dealing therein;
- 12.1.2 that the Fund Manager does not guarantee any future performance of the Investments, or that any Investment shall retain its value or behave in any particular manner;
- 12.1.3 that there is an investment risk associated with all asset classes, including foreign Investments, that are exposed to currency risk, and the exchange control regulations of the South African Reserve Bank may adversely affect or delay the Client's ability to mitigate or diversify its currency risk;
- 12.1.4 that the Fund Manager does not guarantee the repayment of the Client's original investments and/or the performance of Investments, or make any representation concerning either of these matters;
- 12.1.5 that it approves of the investment objectives, guidelines and trading philosophy of the Fund Manager, as disclosed and stated in this agreement;
- 12.1.6 the Fund Manager has referred the Client to the risk disclosure statement annexed hereto as Annexure C;

and the Client records that it accepts such risks, which may result in financial loss, and subject to the provisions of 12.2, agrees that it shall not hold the Fund Manager liable for resulting financial losses.

12.2 Subject to clause 6.2 and save as set out in the remaining provisions of this clause 12.2, the Fund Manager shall not be liable for, and the Client hereby indemnifies the Fund Manager against, any claims for loss or damage which the Client may suffer, howsoever such loss or damage may arise or be suffered, in respect of the Investments managed by the Fund Manager on behalf of the Client. The Fund Manager shall however be liable for, and shall indemnify the Client in respect of, any such direct loss or damage which arises as a result of the fraud, dishonesty or gross negligence of the Fund Manager or any director, employee, officer, or agent of the Fund Manager.

### 13 FORCE MAJEURE

13.1 Neither party will be liable to the other for any delay or non-performance of its obligations under this agreement to the extent to which such delay or non-performance arises from any event (including any act or omission of any third party) beyond its reasonable control which could not reasonably be planned for or avoided (each a “**Force Majeure Event**”).

13.2 A party whose performance is affected by a Force Majeure Event (“**Affected Party**”) will:

13.2.1.1 promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of the Affected Party's obligations; and

13.2.1.2 use reasonable endeavours to avoid or mitigate the effect of such event on the other party and the performance of the Affected Party's obligations and resume full performance of the Affected Party's obligations as soon as reasonably possible.

13.3 If the Affected Party has met the conditions in clause 13.2, its performance of any affected obligation under this agreement will be suspended for the period that the Force Majeure Event continues and the Affected Party will have an extension of time for performance equal to the period of delay or failure, but the Affected Party will continue to perform all other obligations that are not prevented by the Force Majeure Event. If performance of any material part of the relevant obligations is not resumed within 15 (fifteen) Business Days after the notice from the Affected Party to the other party, the other party may terminate this agreement immediately by giving written notice to the Affected Party.

### 14 FUND MANAGER'S AFFIRMATION



The Fund Manager affirms that the establishment of the Portfolio does not conflict with any law, and that the operation and management of the Portfolio shall continuously comply with any law that may apply to it.

## 15 COMMENCEMENT AND TERMINATION

- 15.1 This agreement shall commence on the Effective Date and shall continue for at least 24 months from the Effective Date ("**Initial Term**").
- 15.2 The Fund Manager and the Client shall be entitled to terminate this agreement during the Initial Term by mutual agreement.
- 15.3 Following the expiration of the Initial Term, board of directors of the Client may propose the termination of this agreement to the shareholders of the Client at a general meeting. In the event that the shareholders of the Client resolve by means of an ordinary resolution to terminate this agreement, then this agreement shall terminate after 3 months following such resolution by the shareholders of the Client.
- 15.4 Following the expiration of the Initial Term, the Fund Manager and the Client shall be entitled to terminate this agreement by written mutual agreement, subject to the terms of such agreement.
- 15.5 This agreement shall be terminated immediately and without the requirement for notice should the Fund Manager:
- 15.5.1 be sequestered, liquidated or placed under judicial management, whether provisionally, be found guilty of fraud, be involved in gross misconduct;
- 15.5.2 in which event the Fund Manager shall account to the Client immediately.
- 15.6 Subject to specific written instructions from the Client, the Fund Manager shall not initiate any transaction in any Investments on behalf of the Client after notice of termination has been received or given. It is recorded that any transaction initiated on behalf of the Client prior to the giving or receipt of the notice of termination shall be completed.
- 15.7 Upon any termination or cancellation of this agreement, unless the Client directs otherwise, the following provisions shall apply:

- 15.7.1 all cash, Investments and documents of title comprising the Portfolio at the date of termination shall be returned or transferred to the Client or its nominee as soon as possible;
- 15.7.2 the Fund Manager shall simultaneously provide the Client with a detailed final statement of account; and
- 15.7.3 where assets and documents of title are in the possession of a custodian or nominee company, the Fund Manager shall forthwith issue a written instruction to such custodian or nominee company to return such assets or documents of title to the Client or its nominee, and the Fund Manager shall attach a copy of the written instruction to the final statement of account as proof that such instruction has been given.

## 16 REPRESENTATIONS AND WARRANTIES OF THE FUND MANAGER

- 16.1 The Fund Manager represents, warrants and covenants to the Client that:
- 16.1.1 the Fund Manager is a duly formed and validly existing company in good standing under the laws of South Africa with full corporate power and authority to conduct its business as contemplated in this agreement;
- 16.1.2 this agreement has been duly authorised and executed by the Fund Manager and, upon due authorisation and execution by the Client, will constitute the valid and legally binding agreement of the Fund Manager enforceable in accordance with its terms against the Fund Manager; and
- 16.1.3 as at the Signature Date, there is no litigation, investigation or other proceeding pending or, to the knowledge of the Fund Manager, threatened against the Fund Manager which, if adversely determined, would materially adversely affect the business or financial condition of the Fund Manager.

## 17 BREACH

- 17.1 If any party breaches this agreement ("**Defaulting Party**"), then the other party ("**Aggrieved Party**") shall be entitled to give the Defaulting Party 15 (fifteen) Business Days' written notice to remedy such breach and/or failure, and if the Defaulting Party fails to comply with such notice, then the Aggrieved Party shall forthwith be entitled but not

obliged, without prejudice to any other rights or remedies which the Aggrieved Party may have in law, including the right to claim damages:

- 17.1.1 subject to the provisions of clause 155, to cancel this agreement; or
- 17.1.2 to claim immediate performance and/or payment of all the Defaulting Party's obligations in terms hereof.

## 18 ARBITRATION

18.1 If any dispute arises between the parties in connection with:

- 18.1.1 the formation or existence of, carrying into effect of, interpretation or application of;
- 18.1.2 the parties' respective rights and obligations in terms of or arising out of;
- 18.1.3 the validity, enforceability, rectification or termination, whether in whole or in part of;  
or
- 18.1.4 any documents furnished by the parties pursuant to,

this agreement, and if the disputing parties are unable to resolve that dispute among themselves, any disputing party may, by written notice to the others, refer the dispute for determination by arbitration in accordance with the Rules of the Arbitration Foundation of Southern Africa ("**AFSA**").

- 18.2 Each party agrees that the arbitration will be held as an expedited arbitration in Cape Town in accordance with the then current rules for expedited arbitration of AFSA by 1 arbitrator appointed by agreement between the parties to the dispute, including any appeal against the arbitrator's decision. If the applicable parties cannot agree on the arbitrator or appeal arbitrators within a period of 10 Business Days after the referral of the dispute to arbitration, the arbitrator and appeal arbitrators shall be appointed by the Secretariat of AFSA.
- 18.3 The provisions of clause 18 shall not preclude any party from access to an appropriate court of law for interim relief in respect of urgent matters by way of an interdict, or *mandamus* pending finalisation of this dispute resolution process.

- 18.4 The references to AFSA in this clause 18 shall include its successor or body nominated in writing by it in its stead.
- 18.5 This clause is a separate, divisible agreement from the rest of this agreement and shall remain in effect even if the agreement terminates, is nullified or cancelled for whatsoever reason or cause.

## 19 **CESSION AND DELEGATION**

No party may cede and delegate its rights and obligations under this agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

## 20 **NOTICES AND DOMICILIA**

- 20.1 The parties choose the following addresses for all purposes under this agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature:

### 20.1.1 **Fund Manager:**

- physical - Unit B4 Cinsaut House  
Vineyard Office Estate  
99 Jip de Jager Drive, Bellville  
Cape Town, 7530
- email - carl@acncapital.co.za
- attention - Carl Neethling

### 20.1.2 **Client:**

- physical - 1 Carey Street  
Wynberg  
Sandton  
2090
- email - joe.fine@ascendishealth.co.za
- attention - The Board of Directors

- 20.2 Any notice or communication required or permitted to be given in terms of this agreement shall be valid and effective only if in writing. It will be competent to give notice or communicate by e-mail.

20.3 Any party may, by notice to the other parties, change its physical address within South Africa, or change its e-mail address.

20.4 Any notice to a party:

20.4.1 delivered by hand to a responsible person during ordinary business hours at its chosen physical address shall be deemed to have been received on the day of delivery;

20.4.2 sent by e-mail to its chosen e-mail address shall be deemed to have been received on the first Business day after the date of transmission;

unless the objecting party proves the contrary.

20.5 Notwithstanding anything to the contrary, a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen address.

## 21 **NO STIPULATIO ALTERI**

No provision in this agreement shall constitute a contractual provision capable of acceptance and enforcement by any person who is not a party to this agreement unless the applicable provision expressly states that it shall be capable of acceptance by such person.

## 22 **GENERAL**

22.1 No relaxation, indulgence or extension of time granted by any party ("**Grantor**") to another party shall be construed as a waiver of any of the Grantor's rights in terms hereof, or a novation of any of the terms of this agreement or estop the Grantor from enforcing strict and punctual compliance with the terms of this agreement.

22.2 No variation of, addition to, consensual cancellation of or waiver of any right arising in terms of this agreement (including this clause 22.2) shall be of any force or effect unless it is reduced to writing and signed by a duly authorised representative of each of the parties.

22.3 Save as otherwise provided, this document constitutes the entire agreement between the parties in relation to the subject matter hereof and no party shall accordingly be bound by any undertaking, representation or warranty not recorded therein.

22.4 This agreement is to be interpreted in accordance with and governed by the laws of South Africa.

Signed at Durbanville on 27 November 2023  
for ACN Capital IHC Proprietary Limited



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who warrants that s/he is duly  
authorised hereto

Signed at on 27 November 2023  
for Ascendis Health Limited



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who warrants that s/he is duly  
authorised hereto

## **ANNEXURE A: INVESTMENT OBJECTIVES AND RESTRICTIONS**

### **1 PURPOSE**

This document sets forth the strategic investment objectives and guidelines for the management by ACN Capital IHC Proprietary Limited ("**Fund Manager**") of Ascendis Health Limited (the "**Client**").

### **2 DESCRIPTION OF THE CLIENT**

The Client is a South African registered public company.

### **3 DESCRIPTION OF THE FUND MANAGER**

The Fund Manager is ACN Capital IHC Proprietary Limited, a South African registered private company and registered financial services provider.

### **4 RATE OF RETURN OBJECTIVES**

The Fund Manager's aim is to generate a return on capital to the shareholders above the Required Return. The returns will be measured in "Rands" meaning South African Rand, the lawful currency of South Africa and the Required Return will be 10% (ten percent) per year, accruing monthly. The accrual of the Required Return will commence on the first anniversary of the Effective Date of this agreement.

### **5 INVESTMENT PHILOSOPHY**

#### **5.1 GEOGRAPHY**

The Fund Manager has a mandate to focus on investments in countries in Sub-Saharan Africa and mainly in Southern Africa.

#### **5.2 SECTORS**

The Client will seek opportunities in health, wellness and medical sectors.

#### **5.3 TYPE & FEATURES**

The Investments will be focused on established and profitable unlisted, medium-sized Southern African companies with growth ambitions and opportunities.

#### 5.4 DIVERSIFICATION

To strengthen diversification of the Investments, the investment decision process will utilise several diversification criteria when evaluating each opportunity. These criteria include, but are not restricted to, geographic location of the Portfolio companies, industry investment and investment size.

#### 5.5 INFLUENCE & CONTROL

The Fund Manager will endeavour to have board representation at all times in Portfolio Companies. The target shareholding will be evaluated and determined per Portfolio Company based on the investment's specific circumstances and requirements. The Fund Manager will endeavour to obtain a minority shareholding that will allow for significant influence. Control of Portfolio Companies, i.e. more than 50% effective control, is not excluded.

#### 5.6 PUBLICLY LISTED VERSUS PRIVATE EQUITY INVESTMENTS

The Fund Manager is not restricted from investing in listed securities as long as the investment opportunity falls within these Investment Objectives and Restrictions. The intention is not to be a portfolio investor in listed securities and any such investment will be made with a view of obtaining significant influence.

#### 5.7 INVESTMENT TARGETS

Investments made by the Client will typically have the following characteristics:

- The targeted Portfolio Company must have the potential to generate material profits and be a small to medium-sized business in a growing industry in order to maximise long term capital appreciation that delivers superior rates of return for investors.
- The Fund Manager will, where appropriate, make conservative use of gearing of the assets in the Portfolio.



The specific performance objective for each investment shall be established by the Fund Manager based on the risk and strategy involved.

## **6 CONTROLLING PORTFOLIO RISKS**

- 6.1 The Fund Manager will endeavour to achieve returns superior to the industry standard without assuming additional or unnecessary risk through its investments. It will therefore not enter into potential high-return transactions if the risk is deemed to outweigh the potential returns of the transaction.
  
- 6.2 The Fund Manager will adhere to sound corporate governance principles. This will entail using strict risk management procedures to be followed. In limiting risk, due care will be taken in considering each investment opportunity through the completion of a thorough due diligence process.

## **ANNEXURE B: REMUNERATION OF THE FUND MANAGER**

1 The following expressions shall, unless otherwise stated or inconsistent with the context in which they appear, bear the following meanings:

1.1 "**Accounting Date**" means 30 June 2024 and the last day in June in each year thereafter, or such other date as the Fund Manager may determine and notify to the Client in accordance with any Applicable Laws or regulation or, in the case of the final Accounting Period, the date when this agreement is terminated; and

1.2 "**Accounting Period**" means a period ending on and including an Accounting Date and beginning on the day following the preceding Accounting Date or, in the case of the first Accounting Period, on the Effective Date.

2 The Fund Manager shall be entitled to receive an annual fee ("**Management Fee**") from the Client, payable in quarterly instalments in advance, which will constitute an expense for the Client and shall be drawn down on issuing a quarterly invoice. The Management Fee (exclusive of VAT) shall be determined at the start of the calendar quarter for which a Management Fee is due:

2.1 For the first year from the Effective Date, the Management Fee shall be R 8,500,000 (eight million and five hundred thousand rand), plus VAT.

2.2 On each anniversary of the Effective Date, the Management Fee shall increase with the CPI, calculated on the Management Fee paid for the immediately preceding year or with such higher amount as agreed to by the board of directors of the Client prior to the anniversary of the Effective Date, which percentage increase shall not be lower than the CPI.

2.3 The first payment will be in respect of the period from the Effective Date up to the end of the first quarter ending after the Effective Date. Thereafter payments will be made on the first Business Day following the last day of March, June, September and December in each year.

### **3 PERFORMANCE INCENTIVE FEE – FOR CONTEXT**

#### **3.1 Background**

3.1.1 This clause 3 is for the purpose of providing a framework, to conclude a performance incentive arrangement ("**Performance Fee**") for the Fund Manager.

3.1.2 The Performance Fee will be split into two different incentives and will be put into place within 3 months from the Effective Date of this agreement. It will not deviate materially from the guidelines set out in clause 3.2.1 and 3.2.2 below.

3.2 The Performance Fees will only become due and payable once sufficient realisations of the Investments have occurred resulting in distributable capital that is in excess of the market capitalisation (excluding withholding taxes) of the Company; and the Fund Manager recommended the distribution of the available capital to the Client.

i.e.

1. More than R500m of free cash needs to be available for distribution
2. The Fund Manager needs to recommend the distribution thereof
3. The Client will have the option to reinvest or distribute and this decision should not negatively affect the ability of the Fund Manager to earn its Performance Fee but the recommendation should at least meet the minimum liquidity and solvency requirements.

<b>Example for reference purposes ONLY</b>		
Realisation Proceeds	50	Gross sales price less costs and taxes
<b>less</b> Required Realisation	-46	Market cap (R500m) +10% return
Equals Profit Amount	<b>4</b>	
Incentive amount	0,6*	= 15% of Profit Amount

\*Only payable once total market capitalisation is returned to shareholders, or Client elects to retain but was available for distribution.

3.2.1 In the event of a realisation or disposal of part or all of any of the Investments ("**Realised Asset**"), the Fund Manager shall be entitled to a Performance Fee of 15% (Fifteen per cent) of the Profit Amount (plus VAT, if applicable), in respect of that Investment, provided that the Realisation Proceeds received or accrued to the Client as a result of the disposal of that Realised Asset is no less than the Hurdle Amount relating to that disposal. The Incentive Fee shall accrue to the Fund Manager from the Realisation Proceeds arising from the relevant disposal on the date on which the Realisation Proceeds (or, following the deduction of the Incentive Fee, the remaining portion thereof) are to be paid to the Client and will become due and payable within 7 working days after the first board meeting held following the receipt of the Realisation Proceeds.

<b>Example: Potential allocation to Hurdle Amounts</b>	
Market capitalisation	R 500 000 000

Negative head office "drag"	-R120 000 000
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The negative head office cost drag needs to increase the relative value assigned to the Portfolio Companies as it is a cost that the group needs to absorb during the process of realisation of Investments.

Portfolio Company	AFTER TAX	PLUS Head office	PLUS 10% return	Hurdle Amount
Ascendis Consumer Brands	R230 000 000	R44 516 129	R23 000 000	R 297 516 129
Chempure	R50 000 000	R9 677 419	R5 000 000	R 64 677 419
CPSA	R45 000 000	R8 709 677	R4 500 000	R 58 209 677
SI	R40 000 000	R7 741 935	R4 000 000	R 51 741 935
TSG	R25 000 000	R4 838 710	R2 500 000	R 32 338 710
OX	R95 000 000	R18 387 097	R9 500 000	R 122 887 097
InterVMed	R95 000 000	R18 387 097	R9 500 000	R 122 887 097
CardioTech	R40 000 000	R7 741 935	R4 000 000	R 51 741 935
<b>Totals</b>	<b>R620 000 000</b>	<b>R120 000 000</b>	<b>R62 000 000</b>	<b>R802 000 000</b>

**As can be seen in scenario above, a total of R802 million NET realisations, after tax, will be required to be achieved by the management team in order to be eligible to earn Performance Fees.**

3.2.2 As soon as a total of R500 million (Five hundred million rand), excluding withholding taxes, has been distributed to the shareholders of the Client, a total of R4 million (Four million rand) will become due and payable to the Fund Manager (0,8% of market capitalisation).

3.2.2.1 The Fund Manager undertakes that the majority of this amount (after tax) will then be distributed to Yaseen Jhaveri or his nominated vehicle.

4 If at any time during or after an Accounting Period it should be discovered that payments made to the Fund Manager on account of the Management Fee in that Accounting Period are less than the Management Fee specified in paragraph 2, then in the next Accounting Period, simultaneous with the payment of the first Management Fee paid in that Accounting Period, the Client shall pay an amount equal to the shortfall (being the difference between the Management Fee specified in paragraph 2 and the amount actually paid in respect of the Management Fee in that Accounting Period).

5 Conversely, if at any time during or after an Accounting Period it should be discovered that payment of the Management Fee made in that Accounting Period was more than the Management Fee specified in paragraph 2, the Fund Manager shall promptly refund the excess

to the Client. Should the Fund Manager fail to do so, the Management Fee for the subsequent Accounting Period shall be reduced by the amount of the over-payment of the Management Fee for the preceding Accounting Period.

## **ANNEXURE C: RISK DISCLOSURE STATEMENT**

- 1 There is no assurance that the investment strategy of the Fund Manager, set out in the Investment Objectives and Restrictions (“**Strategy**”), will be successful or that it will achieve the Client’s investment objectives. It should be appreciated that the value of Investments can decrease or increase, that the Client may not realise the amount initially invested, and that past performance data is not necessarily indicative of future performance. The Strategy is neither intended to, nor can it, eliminate the risk of loss inherent in Investments. The Strategy: (i) carries a high degree of risk and the Client should view its investments as long term; and (ii) may not be appropriate for all investors and is only suitable for investors who fully understand and are capable of bearing the attendant risk.
  
- 2 The Client acknowledges the risks associated with the Strategy. This Risk Disclosure Statement is simply a summary of perceived risks and is by no means comprehensive.

### Illiquidity of Investments

- 3 Investments in Portfolio Companies may not be readily marketable and it may therefore take longer to liquidate, or it may not be possible to liquidate, these positions. Although these interests may occasionally be resold in privately negotiated transactions, it may be difficult to realise them at their full value. Further, such funds will generally not be subject to public disclosure and other investor protection requirements applicable to publicly traded securities.

### Concentration of Investments

- 4 Although it is part of the Investment Objectives and Restrictions to diversify the Portfolio, the Portfolio may at certain times comprise relatively few Investments. As a consequence, the aggregate return may be substantially adversely affected by the unfavourable performance of any single Investment.

### Economic and political risks

- 5 In the course of investing in countries in Sub-Sahara Africa, the Client will be exposed to the direct and indirect consequences of political, economic, social and diplomatic changes in the region that could materially adversely affect its investments. Despite its recent progress, countries in Sub-Sahara Africa could face potential social and political instability. Political changes or deterioration in a country's domestic economy or balance of trade may indirectly affect the Client’s investment in a particular company in that country. The Fund Manager aims to invest mainly in South Africa, but to the degree that it invests outside South Africa, the

exposure to economic and political risks could be higher. Moreover, Investments could be adversely affected by changes in the general economic climate or the economic factors affecting a particular industry, changes in tax law or specific developments within such companies or interest rate and/or exchange rate movements. While the Fund Manager intends to manage the Client's assets in a manner that will minimise its exposure to such risks, there can be no assurance that adverse political or economic changes will not cause the Client to suffer losses.

#### Long-term Investments

- 6 Although certain investments by the Client may generate current income, the return of capital and the realisation of gains, if any, from an Investment will generally occur only upon the partial or complete disposal of such Investment. Certain Investments may occasionally generate some current income, but are intended to be long-term investments.

#### Legal, Tax and Regulatory Risks

- 7 Changes in the legal, tax or regulatory regimes, or the interpretation of existing legislation and regulations, during the life of Investments may have an adverse effect on those Investments or the Client. The Client should note that there may be circumstances where it incurs tax liabilities directly or indirectly as a result of Investments.

#### Exchange rate Risk

- 8 To the extent that the Fund Manager invests outside South Africa and in a different currency than the Rand, the Client will be exposed to the risk that the Investments value will be affected by changes in the exchange rate.

#### Investments in less-established companies

- 9 The Client may be investing a portion of its assets in smaller or less established companies. Investments in such companies may involve greater risks than are generally associated with investments in larger, more established companies, since trading volumes for their securities are likely to be small and they are likely to be subject to more abrupt and erratic price movements. Less established companies tend to have smaller capitalisations and fewer resources, and therefore are often more vulnerable to financial failure. Such companies also have shorter operating histories on which to judge future performance and may experience difficulties that are not faced by established companies.

- 10 Furthermore, the companies in which the Client may invest might experience substantial fluctuations in their operating results. The success of certain enterprises will depend on the management talents and efforts of a small group of key individuals any of whose death, disability or resignation could adversely affect the company.

#### Leveraged investments

- 11 In certain cases, the Client will invest in Portfolio Companies that may incur substantial debt by virtue of its acquisition structure and/or additional debt to finance certain acquisitions, capital expenditures or other expansions. Although the Fund Manager will seek to monitor such leverage, the leveraged capital structure of such Portfolio Companies will increase their exposure to adverse economic factors such as rising interest rates, downturns in the economy or deterioration in the condition of a Portfolio Company or its industry. In the event that a Portfolio Company is unable to generate sufficient cash flow to meet principal and interest payments on its indebtedness, the value of the Client's equity investments in such Portfolio Company could be adversely affected.

#### Portfolio Valuation

- 12 Valuations of assets in the Portfolio and of other underlying Investments in the Portfolio may be based on unaudited financial records, and in some cases, they may only be an estimate of the valuation of such Portfolio or other underlying Investment. The Portfolios will hold underlying investments, which generally are not actively traded. Consequently, it may be relatively difficult for the Fund Manager to obtain reliable information on the investments for valuation purposes and to dispose of investments at the valuation level. Inherent uncertainties as to the valuation of Investments held in the Portfolio could have an adverse effect on the value of Investments.

#### Competition

- 13 The Client will be competing for Investments against other groups, including other private equity investment firms, some of which will have greater resources than the Client. It is possible that competition for appropriate investment opportunities may increase, thus reducing the number of opportunities available and adversely affecting the terms upon which Investments can be made.



No assurance of investment return

- 14 The Fund Manager cannot provide assurance that it will be able to choose, make and realize investments or that the returns will be commensurate with the risk of the Investments.
- 15 By its signature of the agreement and its signature below, the Client confirms that it has read this statement, and acknowledges and accepts the risks that it is undertaking.

Signed at

on 27 November

2023

for **ASCENDIS HEALTH LIMITED**



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who warrants that s/he is duly  
authorised hereto