

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**Form 8-K**

**CURRENT REPORT  
Pursuant to Section 13 or 15(d)  
of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): July 15, 2022 (July 11, 2022)**

**ProKidney Corp.**

(Exact Name of Registrant as Specified in its Charter)

**Cayman Islands**  
(State or other jurisdiction  
of incorporation)

**001-40560**  
(Commission  
File Number)

**98-1586514**  
(I.R.S. Employer  
Identification No.)

**2000 Frontis Plaza Blvd., Ste 250  
Winston-Salem, North Carolina**  
(Address of Principal Executive Offices)

**27103**  
(Zip Code)

**Registrant's telephone number, including area code: (336) 999-7028**

**3929 Westpoint Blvd., Suite G  
Winston-Salem, NC 27103**  
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A Ordinary Shares, par value \$0.0001 per share	PROK	Nasdaq Capital Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (Sec.230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (Sec.240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

## INTRODUCTORY NOTE

On July 11, 2022 (the “Closing Date”), Social Capital Suvretta Holdings Corp. III, a Cayman Islands exempted company (“SCS”) consummated the previously announced Business Combination (as defined below) with ProKidney LP, a limited partnership registered under the laws of Ireland (“ProKidney”). In connection with the closing of the Business Combination, the registrant changed its name from “*Social Capital Suvretta Holdings Corp. III*” to “*ProKidney Corp.*” (or “New ProKidney”). New ProKidney will continue the existing business operations of ProKidney as a publicly traded company.

As used in this Current Report on Form 8-K, unless otherwise stated or the context clearly indicates otherwise, the terms the “Registrant,” the “Company,” “New ProKidney,” “we,” “us,” and “our” refer to ProKidney Corp., and its subsidiaries at and after the Closing Date and giving effect to the consummation of the Business Combination (the “Closing”). Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Proxy Statement (as defined below).

### **Item 1.01. Entry into a Material Definitive Agreement.**

Item 2.01 of this Current Report on Form 8-K discusses the consummation of the Transactions (as defined below) and various other transactions and events contemplated by the Business Combination Agreement which took place on the Closing Date and is incorporated herein by reference. In addition, the information contained in SCS’s definitive proxy statement on Schedule 14A filed by SCS with the U.S. Securities and Exchange Commission (the “Commission”) on June 10, 2022 (the “Proxy Statement”) in the sections entitled, “Related Agreements,” “Ancillary Agreements,” and “Post-Business Combination New ProKidney Executive Compensation” is incorporated herein by reference.

#### *Exchange Agreement*

On the Closing Date, New ProKidney entered into that certain Exchange Agreement with ProKidney and certain Closing ProKidney Unitholders pursuant to which, subject to the procedures and restrictions therein, from and after the waiver or expiration of any contractual lock-up period (including pursuant to the Lock-Up Agreement) the holders of Post-Combination ProKidney Common Units (or certain permitted transferees thereof) will have the right from time to time at and after 180 days following the Closing to exchange their Post-Combination ProKidney Common Units and an equal number of New ProKidney Class B ordinary shares on a one-for-one basis for New ProKidney Class A ordinary shares (the “Exchange”); provided, that, subject to certain exceptions, New ProKidney, at its sole election, subject to certain restrictions, may, other than in the case of certain secondary offerings, instead settle all or a portion of the Exchange in cash based on a volume weighted average price of a New ProKidney Class A ordinary share. The Exchange Agreement provides that, as a general matter, a holder of Post-Combination ProKidney Common Units will not have the right to exchange Post-Combination ProKidney Common Units if New ProKidney determines that such exchange would be prohibited by law or regulation or would violate other agreements with New ProKidney and its subsidiaries to which the holder of Post-Combination ProKidney Common Units may be subject, including the Second Amended and Restated ProKidney Limited Partnership Agreement and the Exchange Agreement.

The foregoing description of the Exchange Agreement does not purport to be complete and is qualified in its entirety by the terms and conditions of such Exchange Agreement, a form of which is attached hereto as Exhibit 10.2 and is incorporated herein by reference.

#### *Lock-Up Agreement*

On the Closing Date, New ProKidney, SCS Sponsor III LLC and certain Closing ProKidney Unitholders entered into the Lock-Up Agreement. The Lock-Up Agreement contains certain restrictions on transfer with respect to the SCS Sponsor III LLC and the ProKidney Unitholders party thereto. Such restrictions begin at the Closing and end on the earlier of (i) the date that is 180 days after the Closing and (ii)(a) for 33% of the Lock-Up Shares (as defined therein) (other than the Earnout Shares (as defined therein) and the PIPE Shares (as defined therein)), the

date on which the last reported sale price of a New ProKidney Class A ordinary share equals or exceeds \$12.50 per share for any 20 trading days within any 30-trading day period commencing at least 30 days after the Closing and (b) for an additional 50% of the Lock-Up Shares (other than the Earnout Shares and the Private Placement Shares), the date on which the last reported sale price of a New ProKidney Class A ordinary share equals or exceeds \$15.00 per share for any 20 trading days within any 30-trading day period commencing at least 30 days after the Closing. Notwithstanding the above, (i) the lock-up period for any Earnout Shares will expire not earlier than 180 days after such Earnout Shares are issued; (ii) 50% of the Lock-Up Shares held by certain Closing ProKidney Unitholders and their affiliates will remain locked up until the earlier of four years following the Closing and the date that ProKidney receives notice of any regulatory market authorization, including full or conditional authorization, to market its lead product candidate, Renal Autologous Cell Therapy (but, in any event, not earlier than 180 days following the Closing or (in the case of Earnout Shares) the date of issuance); and (iii) the lock-up period for the Private Placement Shares will expire 30 days after the Closing. The restrictions on transfer set forth in the Lockup Agreement are subject to customary exceptions.

The foregoing description of the Lock-up Agreement does not purport to be complete and is qualified in its entirety by the terms and conditions of such Lock Agreement, a form of which is attached hereto as Exhibit 10.3 and is incorporated herein by reference.

#### *Tax Receivable Agreement*

On the Closing Date, New ProKidney entered into that certain Tax Receivable Agreement with the Closing ProKidney Unitholders. Pursuant to the Tax Receivable Agreement, among other things, New ProKidney will be required to pay the Closing ProKidney Unitholders party thereto 85% of certain tax savings recognized by New ProKidney, if any, as a result of the increases in tax basis attributable to exchanges by the Closing ProKidney Unitholders of Post-Combination ProKidney Common Units for New ProKidney Class A ordinary shares or, subject to certain restrictions, cash, pursuant to the Exchange Agreement and certain other tax attributes of ProKidney and tax benefits related to entering into the Tax Receivable Agreement.

The foregoing description of the Tax Receivable Agreement does not purport to be complete and is qualified in its entirety by the terms and conditions of such Tax Receivable Agreement, a form of which is attached hereto as Exhibit 10.1 and is incorporated herein by reference.

#### *Indemnification Agreements*

New ProKidney has entered or will enter into indemnification agreements with each of its directors and executive officers. Each indemnification agreement shall provide for the indemnification by New ProKidney of its directors and executive officers against any and all expenses incurred by that director or officer as a result of his or her status as one of its directors or executive officers, to the fullest extent permitted by Cayman Island law. In addition, the indemnification agreements shall provide, to the fullest extent permitted by Cayman Island law, the advancement of all expenses actually and reasonably incurred by such New ProKidney directors and executive officers, in connection with a legal proceeding involving his or her status as a director or executive officer.

Further information about the indemnification of New ProKidney's directors and executive officers is set forth in the Proxy Statement in the section entitled "Executive Compensation—Limitations on Liability and Indemnification Matters" beginning on page 376 and that information is incorporated herein by reference.

The foregoing description of the indemnification agreement does not purport to be complete and is qualified in its entirety by the terms and conditions of each such indemnification agreement, a form of which is attached hereto as Exhibit 10.13 and is incorporated herein by reference.

### *Employee Stock Purchase Plan*

At the Extraordinary General Meeting (as defined below), the shareholders of New ProKidney adopted and approved the New ProKidney Employee Stock Purchase Plan (the “ESPP”). New ProKidney’s board of directors also approved the ESPP and the material terms thereunder. The ESPP became effective as of the date it was adopted by New ProKidney’s board of directors, following the approval from the New ProKidney shareholders.

The purpose of the ESPP is to provide a means by which the New ProKidney employees may be given an opportunity to acquire a proprietary interest in New ProKidney through the purchase of New ProKidney Class A ordinary shares. The material features of the ESPP are described in the Proxy Statement beginning on page 282 in the section entitled “Proposal No. 6 - Employee Stock Purchase Plan Proposal,” and such description is incorporated herein by reference.

The ESPP permits New ProKidney to deliver up to 5,287,800 New ProKidney Class A ordinary shares, subject to an automatic reduction so that the reserve equals 2% of the number of Class A ordinary shares outstanding immediately after the Closing on a fully-diluted basis (including the ProKidney Class A ordinary shares into which Post-Combination ProKidney Common Units may be exchanged pursuant to the Exchange Agreement, but before giving effect to the number of the ProKidney Class A ordinary shares reserved or issued under the Incentive Equity Plan and the ESPP and excluding all Earnout Shares and all Post-Combination ProKidney Common Units issuable upon the vesting and settlement of Earnout RCUs), pursuant to awards issued under the ESPP. The number of New ProKidney Class A ordinary shares reserved for issuance under the ESPP will automatically increase on the first day of each calendar year, commencing on January 1, 2023, by the least of (i) 5,037,800 New ProKidney Class A ordinary shares, (ii) 1% of the total number of New ProKidney Class A ordinary shares outstanding on a fully-diluted basis outstanding on December 31 of the preceding calendar year and (iii) such smaller number of shares of New ProKidney Class A ordinary shares as determined by the New ProKidney board of directors.

The summary of the ESPP and the information incorporated therein by reference is qualified in its entirety by reference to the text of the ESPP, which is included as Exhibit 10.12 to this Current Report on Form 8-K and is incorporated herein by reference.

### *Incentive Equity Plan Proposal*

At the Extraordinary Meeting, the shareholders of New ProKidney adopted and approved the ProKidney Corp. 2022 Incentive Equity Plan (the “Incentive Plan”). New ProKidney’s board of directors also approved the Incentive Plan and the material terms thereunder. The Incentive Plan became effective as of the date it was adopted by New ProKidney’s board of directors, following the approval from the New ProKidney’s shareholders.

The purpose of the Incentive Plan is to promote the long-term success of New ProKidney by motivating employees and other individuals to perform at the highest level and contribute significantly to the success of New ProKidney, thereby furthering the best interests of New ProKidney and its shareholders. Equity awards are intended to motivate high levels of performance and align interests of New ProKidney’s directors, employees and consultants with those of its shareholders by giving directors, employees and consultants the perspective of an owner with an equity stake in New ProKidney and providing a means or recognizing their contributions to the success of New ProKidney. The material features of the Incentive Plan are described in the Proxy Statement beginning on page 275 in the section entitled “Proposal No. 5 - Incentive Equity Plan Proposal,” and such description is incorporated herein by reference.

The Incentive Plan permits New ProKidney to deliver up to 26,439,000 New ProKidney Class A ordinary shares, subject to an automatic reduction so that the reserve equals 10% of the number of New ProKidney Class A ordinary shares outstanding immediately after the Closing on a fully-diluted basis (including the ProKidney Class A ordinary shares into which Post-Combination ProKidney Common Units may be exchanged pursuant to the Exchange Agreement, but before giving effect to the number of the ProKidney Class A ordinary shares reserved or issued under the Incentive Equity Plan and the ESPP and excluding all Earnout Shares and all Post-Combination ProKidney Common Units issuable upon the vesting and settlement of Earnout RCUs), pursuant to awards issued under the Incentive Plan. The number of shares of New ProKidney Class A ordinary shares reserved for issuance under the Incentive Plan will automatically increase on the first day of each fiscal year, beginning in 2023, by the

lesser of (i) 5% of the total number of outstanding shares of New ProKidney Class A ordinary shares on December 31<sup>st</sup> of the preceding calendar year on a fully-diluted basis and (ii) such amount determined by the plan administrator.

The summary of the Incentive Plan and the information incorporated therein by reference is qualified in its entirety by reference to the text of the Incentive Plan, which is included as Exhibit 10.11 to this Current Report on Form 8-K and is incorporated herein by reference.

#### **Item 2.01. Completion of Acquisition or Disposition of Assets.**

An extraordinary general meeting (the “Extraordinary General Meeting”) was held on July 11, 2022, where the SCS shareholders considered and approved, among other matters, a proposal to adopt the Business Combination Agreement, by and between SCS and ProKidney, pursuant to which at the Closing, the following transactions (the “Transactions”) would occur:

- (i) ProKidney would issue to SCS a number of Post-Combination ProKidney Common Units equal to the number of fully diluted outstanding SCS ordinary shares as of immediately prior to the Closing (but after giving effect to all redemptions of SCS Class A ordinary shares and the purchase of SCS Class A ordinary shares and/or Post-Combination ProKidney Common Units pursuant to one or more subscription agreements (the “PIPE Placement”)), in exchange for (a) (x) New ProKidney Class B ordinary shares, which shares would have no economic rights but would entitle the holders thereof to vote on all matters on which shareholders of New ProKidney would be entitled to vote generally, and (y) restricted stock rights in respect of New ProKidney Class B ordinary shares (“New ProKidney Class B PMEL RSRs”), which restricted stock rights would convert into New ProKidney Class B ordinary shares upon the vesting of the associated PMEL RCUs, (b) an amount in cash equal to the aggregate proceeds obtained by SCS in the PIPE Placement and (c) an amount in cash equal to the aggregate proceeds available for release to SCS from SCS’s trust account (“Trust Account”) (after giving effect to all redemptions of SCS Class A ordinary shares and after payment of any deferred underwriting commissions being held in the Trust Account and payment of certain transaction expenses);
- (ii) Legacy GP would resign as the general partner of ProKidney and New GP would be admitted as the general partner of ProKidney;
- (iii) ProKidney would distribute to the Closing ProKidney Unitholders the New ProKidney Class B ordinary shares and New ProKidney Class B PMEL RSRs received pursuant to clause (i)(a) (x) and (y) above; and
- (iv) holders of Legacy Class A Units would receive an aggregate of 17,500,000 Earnout RCUs and 17,500,000 Earnout RSRs (collectively, the “Earnout Rights”), which Earnout Rights would vest in three equal tranches upon the achievement of certain New ProKidney share price milestones or certain change of control events. When vested, the Earnout RCUs would automatically convert into Post-Combination ProKidney Common Units and the associated Earnout RSRs would automatically convert into New ProKidney Class B ordinary shares, respectively.

Holders of an aggregate of 22,829,769 Class A ordinary shares of SCS sold in its initial public offering (the “public shares”) properly exercised their right to have such shares redeemed for a full pro rata portion of the Trust Account, which was approximately \$10.00 per share, or approximately \$228.3 million in the aggregate.

Immediately after giving effect to the Business Combination, the following equity securities of New ProKidney were issued and outstanding: (i) 9,060,231 New ProKidney Class A ordinary shares issued to the holders of pre-Closing SCS Class A ordinary shares and SCS Class B ordinary shares and (ii) 52,480,000 Class A ordinary shares issued to the PIPE Placement (as defined below) in the PIPE Investment. After the Closing Date, the SCS Class A ordinary shares ceased trading on The Nasdaq Capital Market, and the New ProKidney Class A ordinary

shares commenced trading on The Nasdaq Capital Market under the symbol "PROK" on July 12, 2022. As noted above, an aggregate of approximately \$228.7 million was paid from the Trust Account to holders that properly exercised their right to have public shares redeemed, and the remaining balance immediately prior to the Closing of approximately \$21.7 million remained in the Trust Account. The remaining amount in the Trust Account was used to fund expenses incurred by SCS and ProKidney in connection with the Business Combination and will be used for general corporate purposes of New ProKidney following the Business Combination.

The material terms and conditions of the Business Combination Agreement and related agreements are described in the section entitled "Proposal No. 1 - Business Combination Proposal" beginning on page 208 of the Proxy Statement, which description is incorporated herein by reference.

## FORM 10 INFORMATION

### *Forward Looking Statements*

This Current Report on Form 8-K, including the information incorporated herein by reference, contains forward-looking statements within the meaning of the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, including statements about the anticipated benefits of the Business Combination described herein, and the financial condition, results of operations, earnings outlook and prospects of the Company. In addition, any statements that refer to projections, forecasts or other characterizations of future events or circumstances, including any underlying assumptions, are forward-looking statements. Forward-looking statements are typically identified by words such as "anticipate," "appear," "approximate," "believe," "continue," "could," "estimate," "expect," "foresee," "intends," "may," "might," "plan," "possible," "potential," "predict," "project," "seek," "should," "would" and other similar words and expressions (or the negative version of such words or expressions) may identify forward-looking statements, but the absence of these words does not mean that a statement is not forward-looking.

The forward-looking statements are based on the current expectations of the management of the Company and are inherently subject to uncertainties and changes in circumstances and their potential effects and speak only as of the date of such statement. There can be no assurance that future developments will be those that have been anticipated. These forward-looking statements involve a number of risks, uncertainties or other assumptions that may cause actual results or performance to be materially different from those expressed or implied by these forward-looking statements. These risks and uncertainties include, but are not limited to, those factors described in the section entitled "Risk Factors," those discussed and identified in public filings made with the SEC by the Company, and the following:

- the anticipated benefits of the Business Combination;
- the Company's ability to maintain the listing of its Class A ordinary shares on The Nasdaq Capital Market;
- the Company's ability to manage its growth effectively;
- the success, cost and timing of the Company's product development activities;
- the potential attributes and benefits of the Company's product candidates, and if approved, its products;
- the fact that cell therapies are complex and difficult to manufacture, and the Company could experience manufacturing problems that result in delays in the development or commercialization of REACT, its lead product candidate, or otherwise harm its business;
- the Company's ability to obtain and maintain regulatory approval for its products, and any related restrictions and limitations of any approved product;
- the Company's ability to identify, in-license or acquire additional technology;
- the Company's ability to maintain its existing license, manufacturing and supply agreements;

- the Company's reliance on third parties to conduct, supervise and monitor a certain portion of its research and nonclinical testing and clinical trials for REACT;
- the Company's ability to compete with other companies currently marketing or engaged in the biologics market and in the area of treatment of kidney disease, many of which have greater financial and marketing resources than the Company;
- the size and growth potential of the markets for the Company's products, and the ability of each to serve those markets, either alone or in partnership with others;
- changes in applicable laws or regulations;
- the Company's estimates regarding expenses, revenue, capital requirements and needs for additional financing;
- the Company's ability to raise financing in the future;
- the Company's financial performance;
- the Company's intellectual property rights;
- the Company's internal computer systems, or those of its collaborators or other contractors or consultants, may fail or suffer security breaches, which could result in a material disruption of the Company's product development programs;
- the economic downturns and political and market conditions beyond the Company's control; and
- the impact of the COVID-19 pandemic on the Company's business.

Should one or more of these risks or uncertainties materialize or should any of the assumptions made by the management of the Company prove incorrect, actual results may vary in material respects from those projected in these forward-looking statements.

All subsequent written and oral forward-looking statements concerning the Business Combination or other matters addressed in this Current Report on Form 8-K and attributable to the Company or any person acting on its behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this Current Report on Form 8-K. Except to the extent required by applicable law or regulation, the Company undertakes no obligation to update these forward-looking statements to reflect events or circumstances after the date of this Current Report on Form 8-K or to reflect the occurrence of unanticipated events.

## **BUSINESS**

The business of New ProKidney after the Business Combination is described in the Proxy Statement in the section entitled "Information About ProKidney" beginning on page 315 and such description is incorporated herein by reference.

## **RISK FACTORS**

The risks associated with New ProKidney's business are described in the Proxy Statement in the section entitled "Risk Factors" beginning on page 84 and such description is incorporated herein by reference.

## **FINANCIAL INFORMATION**

Reference is made to the disclosure set forth in Item 9.01 of this Current Report on Form 8-K concerning the financial information of New ProKidney. Reference is further made to the disclosure contained in the Proxy Statement in the sections entitled "Selected Unaudited Pro Forma Condensed Combined Financial Information" beginning on page 82, "Unaudited Pro Forma Condensed Combined Financial Information" beginning on page 181 and "Notes to Unaudited Pro Forma Condensed Combined Financial Information" beginning on page 187, which are incorporated herein by reference.

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The disclosure contained in the Proxy Statement in the section entitled "ProKidney's Management's Discussion and Analysis of Financial Condition and Results of Operations" beginning on page 359 is incorporated herein by reference.

### PROPERTIES

The facilities of New ProKidney are described in the Proxy Statement in the section entitled "Information About ProKidney—Facilities" beginning on page 358 and such description is incorporated herein by reference.

### SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth information regarding the beneficial ownership of New ProKidney ordinary shares as of the Closing Date by:

- each person known to be the beneficial owner of more than 5% of the outstanding shares of each of the ProKidney Corp. Class A ordinary shares, par value \$0.0001 per share (the "Class A ordinary shares") and the ProKidney Corp Class B ordinary shares, par value \$0.0001 per share (the "Class B ordinary shares" and, together with the Class A ordinary shares, the "ordinary shares");
- each director and each of the Company's named executive officers; and
- all current executive officers and directors as a group.

Beneficial ownership is determined according to the rules of the SEC, which generally provide that a person has beneficial ownership of a security if he, she or it possesses sole or shared voting or investment power over that security, and includes shares underlying options that are currently exercisable or exercisable within 60 days.

Unless otherwise indicated, we believe that all persons named in the table below have, or may be deemed to have, sole voting and investment power with respect to all New ProKidney ordinary shares owned by them.

Name and Address of Beneficial Owner (1)	Class A Ordinary Shares	Class B Ordinary Shares	% of Total Voting Power
<b>Directors and Named Executive Officers</b>			
Tim Bertram, Ph.D. (2)	—	2,696,468	1.2%
Pablo Legorreta (3)(11)	—	94,677,968	40.8%
William F. Doyle (4)	—	1,350,469	*
Jennifer Fox	—	—	—
José Ignacio Jiménez Santos	—	—	—
Alan M. Lotvin (5)	—	1,350,469	*
John M. Maraganore, Ph.D. (6)	—	450,156	*
Brian J.G. Pereira, M.D (7)	—	1,350,469	*
Uma Sinha, Ph.D.	30,000	—	*
Deepak Jain, Ph.D. (8)	—	937,836	*
Joseph Stavas, M.D., MPH (9)	—	735,391	*
<b>All Directors and Executive Officers as a Group (14 persons)</b>	30,000	103,453,062	44.6%
<b>Greater-than-Five Percent Holders:</b>			
Tolerantia, LLC (3)(11)	—	94,677,968	40.8%
Control Empresarial de Capitales, S.A. de C.V. (formerly Inversora Carso, S.A. de C.V.) (10)(11)	—	63,118,645	27.2%
Chamath Palihapitiya(12)	13,273,000(13)		5.50%
SC PIPE Holdings LLC(12)	9,500,000		3.87%
Banco Invex, S.A., Institución de Banca Múltiple, Invex Grupo Financiero, as Trustee of Trust I14165(14)	5,000,000		2.15%
IHCI Investments LP(15)	5,000,000		2.15%
Jupiter CAN LP(16)	5,000,000		2.15%
Morgan Stanley Investment Management Inc. (17)	10,000,000		4.31%
Averill Master Fund, Ltd. (18)	3,140,000		1.35%

\* Indicated beneficial ownership of less than 1%.

(1) Unless otherwise noted, business address of each of the following entities or individuals is c/o ProKidney Corp., 2000 Frontis Plaza Blvd., Ste 250, Winston-Salem, North Carolina, 27103.



- (2) Represents 2,696,468 New ProKidney Class B ordinary shares issued as consideration in the Business Combination and does not include 2,248,469 New ProKidney Class B ordinary shares issuable upon the vesting of PMEL RCUs.
- (3) Represents 94,677,968 New ProKidney Class B ordinary shares held by Tolerantia, LLC (“Tolerantia”), a Delaware limited liability company, which is an affiliate controlled and majority-owned by Mr. Pablo Legorreta. Mr. Legorreta controls the voting and disposition of the shares held by Tolerantia. Mr. Legorreta disclaims beneficial ownership of the shares held by Tolerantia except to the extent of his indirect pecuniary interest therein. The business address of Tolerantia is 110, East 59th Street, Suite 3300, New York, New York, 10022.
- (4) Represents 1,350,469 New ProKidney Class B ordinary shares issued as consideration in the Business Combination and does not include 163,857 New ProKidney Class B ordinary shares issuable upon the vesting of PMEL RCUs.
- (5) Represents 1,350,469 New ProKidney Class B ordinary shares issued as consideration in the Business Combination and does not include 163,857 New ProKidney Class B ordinary shares issuable upon the vesting of PMEL RCUs.
- (6) Represents 450,156 New ProKidney Class B ordinary shares issued as consideration in the Business Combination and does not include 163,857 New ProKidney Class B ordinary shares issuable upon the vesting of PMEL RCUs.
- (7) Represents 1,350,469 New ProKidney Class B ordinary shares issued as consideration in the Business Combination and does not include New ProKidney 163,857 Class B ordinary shares issuable upon the vesting of PMEL RCUs.
- (8) Represents 937,836 New ProKidney Class B ordinary shares issued as consideration in the Business Combination and does not include New ProKidney 630,103 Class B ordinary shares issuable upon the vesting of PMEL RCUs.
- (9) Represents 735,391 New ProKidney Class B ordinary shares issued as consideration in the Business Combination and does not include 315,650 New ProKidney Class B ordinary shares issuable upon the vesting of PMEL RCUs.
- (10) Information in the table and footnote is based upon information provided to us by the direct shareholder, Control Empresarial de Capitales S.A. de C.V., acting as successor of Inversora Carso S.A. de C.V. by virtue of a merger (“CEC”). Represents 63,118,645 New ProKidney Class B ordinary shares held by CEC. Members of the Slim family, directly or indirectly, own all of the issued and outstanding voting equity securities of CEC. Therefore, Slim family may be deemed to beneficially own indirectly the Class B ordinary shares held by CEC. CEC is a sociedad anónima de capital variable organized under the laws of the United Mexican States (“Mexico”). The Slim family has an address of Paseo de las Palmas 736, Colonia Lomas de Chapultepec, 11000 Ciudad de Mexico, Mexico and Control Empresarial has an address of Paseo de las Palmas 781, Piso 3, Colonia Lomas de Chapultepec, Seccion III, Miguel Hidalgo, Ciudad de Mexico, Mexico, 11000.
- (11) The Deed of Undertaking, dated as of February 14, 2022, executed by CEC provides that from the Closing until the third anniversary of the Closing, CEC shall vote all ordinary shares beneficially held by it in a manner proportionate to the manner in which all other Class B ordinary shares not held by CEC, including the New ProKidney Class B ordinary shares beneficially held by Tolerantia, are voted, with respect to the election, appointment, or removal of any director to the board of directors. As a result, Tolerantia may be deemed to share beneficial ownership of CEC’s ordinary shares.
- (12) The business address of each of Chamath Palihapitiya and SC PIPE Holdings LLC is c/o SC Master Holdings, LLC 506 Santa Cruz Avenue, Suite 300.
- (13) Consists of 9,500,000 Class A ordinary shares held of record by SC PIPE Holdings LLC and 3,773,000 Class A ordinary shares held of record by SC Master Holdings, LLC. Mr. Palihapitiya may be deemed to beneficially own (within the meaning of Rule 13d-3 under the Exchange Act) securities held by SC PIPE Holdings LLC and/or SC Master Holdings, LLC by virtue of his control over such entities.
- (14) Consists of 5,000,000 Class A ordinary shares held of record by Banco Invex, S.A., Institución de Banca Múltiple, Invex Grupo Financiero, acting solely and exclusively in its capacity as trustee of the trustee of Trust I14165 (the “Trust”), whose record holders are the Trust Beneficiaries (as defined below), issued in connection with, and, upon the closing of, the PIPE Placement. Each of (i) Bertha Paula Michel Gonzalez, (ii) Maria Magdalena Michel Gonzalez and (iii) Maximino Jose Michel Gonzalez (collectively, the “Trust Beneficiaries”), has voting and dispositive power over, one-third of the total number of Class A ordinary shares held by the Trust. The address of the Trust is Boulevard Manuel Avila Camacho No. 40, Piso 7, Lomas De Chapultepec, Ciudad De México 11000. The address of each of the Trust Beneficiaries is Bosque De Radiatas 6-602, Bosques De Las Lomas, Cuajimalpa 05120, Mexico.
- (15) Consists of 5,000,000 Class A ordinary shares held of record by IHCI Investments LP issued in connection with, and, upon the closing of, the PIPE Placement. The address of IHCI Investments LP is 1188 Union, Montreal QC H3B 0E5, Canada.
- (16) Consists of 5,000,000 Class A ordinary shares held of record by Jupiter CAN LP issued in connection with, and, upon the closing of, the PIPE Placement. The address of Jupiter CAN LP is 5930 Royal Lane, Suite E, #117, Dallas TX 75230-3896.
- (17) Morgan Stanley Investment Management Inc. is the adviser or sub-adviser, as the case may be, of each of (i) Brighthouse Funds Trust I: Morgan Stanley Discovery Portfolio, holding 497,653 Class A ordinary shares, (ii) ERAFP Actions Mid Cap USA I holding 12,443 Class A ordinary shares, (iii) Growth Trust holding 245,905 Class A ordinary shares, (iv) Inception Trust holding 166,790 Class A ordinary shares, (v) Johnson & Johnson Pension and Savings Master Trust (JJ9L) holding 15,421 Class A ordinary shares, (vi) Johnson & Johnson Pension and Savings Master Trust (JJ9LDB) holding 136,426 Class A ordinary shares, (vii) Kinstead Global Equity Pool holding 16,039 Class A ordinary shares, (viii) Lawrencium Atoll Investments Ltd. holding 34,707 Class A ordinary shares, (ix) Master Trust for Defined Contribution Plans of American Airlines, Inc. and Affiliates holding 109,253 Class A ordinary shares, (x) Morgan Stanley Funds (UK) - Global Insight Fund holding 7,231 Class A ordinary shares, (xi) Morgan Stanley Insight Fund holding 1,421,688 Class A ordinary shares, (xii) Morgan Stanley Institutional Fund Trust - Discovery Portfolio holding 800,384 Class A ordinary shares, (xiii) Morgan Stanley Institutional Fund, Inc. - Inception Portfolio holding 332,167 Class A ordinary shares, (xiv) Morgan Stanley Institutional Fund, Inc. - Counterpoint Global Portfolio holding 3,802 Class A ordinary shares, (xv) Morgan Stanley Institutional Fund, Inc. - Global Endurance Portfolio holding 19,748 Class A ordinary shares, (xvi) Morgan Stanley Institutional Fund, Inc. - Growth Portfolio holding 3,865,953 Class A ordinary shares, (xviii) Morgan Stanley Investment Funds - Counterpoint Global Fund holding 1,657 Class A ordinary shares, (xiv) Morgan Stanley Investment Funds - Global Endurance Fund holding 34,186 Class A ordinary shares, (xx) Morgan Stanley Investment Funds - Global Insight Fund holding 293,852 Class A ordinary shares, (xxi) Morgan Stanley Investment Funds - US Growth Fund holding 1,549,102 Class A ordinary shares, (xxii) Morgan Stanley Investment Funds - US Insight Fund holding 46,844 Class A ordinary shares, (xxiii) Morgan Stanley Variable Insurance Fund, Inc. - Discovery Portfolio holding 79,084 Class A ordinary shares, (xxiv) Morgan Stanley Variable Insurance Fund, Inc. - Growth Portfolio holding 242,043 Class A ordinary shares (collectively, the “MS Accounts”) and holds voting and dispositive power with respect to shares of record held by each of the MS Accounts. Each of the MS accounts received their respective Class A ordinary shares in connection with the issuance of, and, upon the closing of, the PIPE Placement. The address of Morgan Stanley Investment Management Inc., acting as adviser or sub-adviser, as the case may be, of each of the MS Accounts is 522 Fifth Avenue, New York, NY 10036.
- (18) Consists of 3,140,000 Class A ordinary shares held of record by Averill Master Fund, Ltd. issued in connection with, and, upon the closing of, the PIPE Placement. The address of Averill Master Fund, Ltd. is 540 Madison Avenue, 7th Floor, New York, NY 10022

## **DIRECTORS, EXECUTIVE OFFICERS, PROMOTERS AND CONTROL PERSONS**

The disclosure contained in the Proxy Statement in the section entitled “Management After the Business Combination” beginning on page 378 is incorporated herein by reference. The information set forth under Item 5.02 of this Current Report on Form 8-K relating to the appointment of Jennifer Fox as a member of the board of directors is incorporated herein by reference.

## **EXECUTIVE COMPENSATION**

The disclosure contained in the Proxy Statement in the section entitled “Executive Compensation” beginning on page 370 is incorporated herein by reference. The information set forth under Item 1.01 of this Current Report on Form 8-K relating to the ESPP and Incentive Plan is incorporated herein by reference.

## **CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS**

The disclosure contained in the Proxy Statement in the section entitled “Certain Relationships and Related Transactions—ProKidney” beginning on page 403 is incorporated herein by reference.

## **LEGAL PROCEEDINGS**

The disclosure regarding legal proceedings in the Proxy Statement in the section entitled “Information About ProKidney—Legal Proceedings” beginning on page 358 is incorporated herein by reference.

## **MARKET PRICE OF AND DIVIDENDS ON THE REGISTRANT’S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS**

New ProKidney’s Class A ordinary shares began trading on The Nasdaq Capital Market under the symbol “PROK” on July 12, 2022. New ProKidney has not paid any cash dividends on its Class A ordinary shares to date. It is the present intention of New ProKidney’s board of directors to retain future earnings for the development, operation and expansion of its business and New ProKidney’s board of directors does not anticipate declaring or paying any cash dividends for the foreseeable future. The payment of dividends is within the discretion of New ProKidney’s board of directors and will be contingent upon New ProKidney’s future revenues and earnings, as well as its capital requirements and general financial condition.

## **RECENT SALES OF UNREGISTERED SECURITIES**

The disclosure contained in the Proxy Statement in the section entitled “Description of New ProKidney Securities” beginning on page 386 is incorporated herein by reference.

## **DESCRIPTION OF REGISTRANT’S SECURITIES TO BE REGISTERED**

The disclosure contained in the Proxy Statement in the section entitled “Description of New ProKidney Securities” beginning on page 386 is incorporated herein by reference.

## **INDEMNIFICATION OF DIRECTORS AND OFFICERS**

New ProKidney has entered or will enter into indemnification agreements with each of its directors and executive officers. Each indemnification agreement shall provide for the indemnification by New ProKidney of its directors and executive officers against any and all expenses incurred by that director or officer as a result of his or

her status as one of its directors or executive officers, to the fullest extent permitted by Cayman Island law. In addition, the indemnification agreements shall provide, to the fullest extent permitted by Cayman Island law, the advancement of all expenses actually and reasonably incurred by such New ProKidney directors and executive officers, in connection with a legal proceeding involving his or her status as a director or executive officer.

Further information about the indemnification of New ProKidney's directors and executive officers is set forth in the Proxy Statement in the section entitled "Executive Compensation—Limitations on Liability and Indemnification Matters" beginning on page 376 and that information is incorporated herein by reference.

#### **FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

The information set forth under Item 9.01 of this Current Report on Form 8-K is incorporated herein by reference.

#### **CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

The information set forth under Item 4.01 of this Current Report on Form 8-K is incorporated herein by reference.

#### **FINANCIAL STATEMENTS AND EXHIBITS**

The information set forth under Item 9.01 of this Current Report on Form 8-K is incorporated herein by reference.

#### **Item 3.02. Unregistered Sales of Equity Securities.**

##### *Private Placement*

In connection with the execution of the Business Combination Agreement, SCS and New ProKidney entered into subscription agreements (the "Subscription Agreements") with investors (the "PIPE Investors"), pursuant to which, among other things, New ProKidney agreed to issue and sell in a private placement an aggregate of 52,480,000 shares of New ProKidney Class A ordinary shares and 5,000,000 Post-Combination ProKidney Common Units (together with a corresponding number of New ProKidney Class B ordinary shares) to the PIPE Investors for a purchase price of \$10.00 per share or Post-Combination ProKidney Common Unit, as applicable, and an aggregate purchase price of \$574.8 million.

The PIPE Placement closed immediately prior to the Closing. The placement agents received customary fees in connection with such closing equal to approximately \$19.3 million in the case of Citigroup Global Markets Inc. (including in its capacity as financial advisor to ProKidney), approximately \$9.7 million in the case of Morgan Stanley & Co, LLC (including deferred underwriting fees in connection with SCS's initial public offering), approximately \$2.5 million in the case of Jefferies LLC, approximately \$2.2 million in the case of Evercore Group L.L.C. and approximately \$1.1 million in the case of UBS Securities LLC. Pablo Luis Mancera de Arringunga and Regina Mancera Bustamante, for their services of locating, identifying and introducing potential non-U.S. investors in connection with the PIPE Placement, received a finder's fee of \$1.0 million. BDT & Company, LLC, as a financial advisor to ProKidney in connection with the Business Combination, received a fee of \$500,000.

The New ProKidney Class A ordinary shares, Post-Combination ProKidney Common Units and New ProKidney Class B ordinary issued to the PIPE Investors in the PIPE Placement immediately prior to the Closing were issued pursuant to and in accordance with the exemption from registration under the Securities Act, under Section 4(a)(2) and/or Regulation D promulgated under the Securities Act.

This summary is qualified in its entirety by reference to the text of the Subscription Agreements, a form of which is included as Exhibits 10.7 and 10.8 to this Current Report on Form 8-K and is incorporated herein by reference.

### **Item 3.03. Material Modification to Rights of Security Holders.**

In connection with the Closing, SCS changed its name to ProKidney Corp. and adopted the Second Amended and Restated Memorandum and Articles of Association (the “charter”), effective as of the Closing Date. Reference is made to the disclosure in the Proxy Statement in the section entitled “Proposal No. 2 - Organization Documents Proposals” beginning on page 259, which is incorporated herein by reference.

The following descriptions are summaries of the material terms of New ProKidney’s Second Amended and Restated Memorandum and Articles of Association. These summaries are qualified in their entirety by reference to the text of the Second Amended and Restated Memorandum and Articles of Association, which is included as Exhibit 3.1 to this Current Report on Form 8-K and are incorporated herein by reference.

#### **Authorized and Outstanding Stock**

The charter authorizes the issuance of an aggregate of 500,000,000 New ProKidney Class A ordinary shares, up to 500,000,000 New ProKidney Class B ordinary shares and up to 5,000,000 New ProKidney preference shares, each par value \$0.0001 per share. The shares issued in the Business Combination are duly authorized, validly issued, fully paid and non-assessable.

Unless the New ProKidney board of directors determines otherwise, New ProKidney will issue all shares of capital stock in uncertificated form.

#### **Ordinary Shares**

The charter provides for two classes of ordinary shares. Except as otherwise required by applicable law or as provided in the charter, the holders of Class A ordinary shares, the publicly traded shares, are entitled to one vote per share on all matters on which shareholders generally are entitled to vote. The holders of Class B ordinary shares are entitled to one vote per share on all matters on which shareholders generally are entitled to vote. Class A and B shareholders will vote as a single class, unless the vote involved any amendment to the charter that would alter or change the powers, preferences or special rights of only one class of ordinary shares in a manner that has an adverse effect upon such rights.

Subject to applicable law and the rights, if any, of the holders of any outstanding series preference shares or any other outstanding class or series of shares, holders of Class A ordinary shares will be entitled to receive such dividends and distributions, if any, as may be declared from time to time by the board of directors in its discretion out of funds legally available therefor. Holders of Class B ordinary shares are not entitled to participate in dividends and distributions declared by the board of directors.

#### **Preference Shares**

The charter authorizes the New ProKidney board of directors to establish one or more series of preference shares. Unless required by law or by any stock exchange, and subject to the terms of the charter, the authorized shares of preference shares will be available for issuance without further action by holders of ordinary shares. The New ProKidney board of directors is able to determine, with respect to any series of preference shares, designations, powers, preferences and relative, participating, optional or other rights, if any, and the qualifications, limitations or restrictions thereof, if any.

New ProKidney can issue a series of preference shares that could, depending on the terms of the series, impede or discourage an acquisition attempt or other transaction that some, or a majority, of the holders of ordinary shares might believe to be in their best interests or in which the holders of ordinary shares might receive a premium over the market price of ordinary shares. Additionally, the issuance of preference shares may adversely affect the rights of holders of New ProKidney ordinary shares by restricting dividends on the ordinary shares, diluting the voting power of the ordinary shares or subordinating the rights of the ordinary shares to distributions upon a liquidation, dissolution or winding up or other event. As a result of these or other factors, the issuance of preference shares could have an adverse impact on the market price of ordinary shares.

#### **Preemptive or Other Rights**

The New ProKidney shareholders have no preemptive or other subscription rights. There will be no sinking fund provisions applicable to the ordinary shares.

### ***Election of Directors***

All elections of directors will be determined by a plurality of the votes cast in respect of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors.

On February 14, 2022, Control Empresarial de Capitales, S.A. de C.V. (“CEC”) executed a Deed of Undertaking, pursuant to which CEC agreed, subject to the organizational documents of New ProKidney, from the Closing until the third anniversary of the Closing, to vote all of its voting shares in the capital of New ProKidney in a manner proportionate to the manner in which all New ProKidney Class B ordinary shares, including the New ProKidney Class B ordinary shares beneficially held by Tolerantia, LLC (“Tolerantia”) are voted, solely with respect to (a) the election of any director to the New ProKidney board of directors at any meeting of shareholders at which directors are to be elected; (b) the appointment of any director to fill any vacancy created by the failure of any director to complete a term on the New ProKidney board of directors; and (c) any removal of a director from the New ProKidney board of directors. Pursuant to the Voting Agreement, Tolerantia, LLC effectively controls a majority of the voting power of all outstanding New ProKidney ordinary shares with respect to the election, appointment or removal of any New ProKidney director.

### ***No Cumulative Voting***

There are no cumulative voting rights for Class A ordinary shareholders.

### ***Staggered Board***

The New ProKidney board of directors is divided into three classes serving staggered three-year terms. Class I, Class II and Class III directors will serve until New ProKidney’s annual meetings of stockholders in 2023, 2024 and 2025, respectively.

New ProKidney Class I directors are William F. Doyle, Alan M. Lotvin, M.D. and Brian J.G. Pereira, M.D.

New ProKidney Class II directors are Jennifer Fox, John M. Maraganore, Ph.D. and José Ignacio Jiménez Santos.

New ProKidney Class III directors are Tim Bertram, Ph.D., Pablo Legorreta and Uma Sinha, Ph.D.

At each annual meeting of shareholders, directors will be elected to succeed the class of directors whose terms have expired. This classification of New ProKidney’s board of directors could have the effect of increasing the length of time necessary to change the composition of a majority of the board of directors. In general, at least two annual meetings of shareholders will be necessary for shareholders to effect a change in a majority of the members of the board of directors.

### ***Annual Meeting***

The charter provides that annual general meetings will be held at a time and place as appointed by the board of directors.

### ***Anti-Takeover Effects of the Charter, Bylaws and Certain Provisions of Delaware Law***

The charter contains provisions that could have the effect of rendering more difficult, delaying, or preventing an acquisition deemed undesirable by the New ProKidney board of directors. These provisions could also make it difficult for shareholders to take certain actions, including appointing directors who are not nominated by the members of the New ProKidney board of directors or taking other corporate actions, including effecting changes in New ProKidney’s management. For instance, the charter does not provide for cumulative voting in the appointment of directors and provides for a classified board of directors with three-year staggered terms, which could delay the ability of shareholders to change the membership of a majority of the New ProKidney board of directors. The New ProKidney board of directors will be empowered to appoint a director to fill a vacancy created by the expansion of the New ProKidney board of directors or the resignation, death, or removal of a director in

certain circumstances; and New ProKidney's advance notice provisions in the charter require that shareholders must comply with certain procedures in order to nominate candidates to New ProKidney's board of directors or to propose matters to be acted upon at a shareholders' meeting.

### ***Transfer Restrictions***

The charter provides that no holder of Class B ordinary shares may transfer such shares to any person unless such holder at the same time transfers a corresponding number of Post-Combination ProKidney Common Units to the same person and otherwise in accordance with the provisions of the Second Amended and Restated ProKidney Partnership Agreement. If any outstanding Class B ordinary share ceases to be held by a holder of a corresponding Post-Combination ProKidney Common Units, the Class B ordinary share shall be automatically forfeited to New ProKidney for no consideration and cancelled.

### ***Authorized but Unissued Capital Stock***

New ProKidney's authorized but unissued ordinary shares and preference shares will be available for future issuances without shareholder approval and could be utilized for a variety of corporate purposes, including future offerings to raise additional capital, acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved ordinary shares and preference shares could render more difficult or discourage an attempt to obtain control of New ProKidney by means of a proxy contest, tender offer, merger or otherwise.

### ***Removal of Directors; Vacancies and Newly Created Directorships***

The charter provides that directors may be removed from office by special resolution. The New ProKidney board of directors may appoint any person to be a director, either to fill a vacancy or as an additional director, provided that the appointment does not cause the number of directors to exceed the maximum number set in the charter.

### ***Conflicts of Interest***

The charter allows directors to hold any other office or place of profit with New ProKidney (other than the auditor), and may be or become a director or other officer of or otherwise interested in any company promoted by New ProKidney or in which New ProKidney may be interested as a shareholder, and such director shall not be accountable for any remuneration or other benefits received by the director from such interest in the other company. Further, the New ProKidney directors may contract with New ProKidney, as a vendor, purchaser or otherwise, and such director can vote in respect of any contract or transaction in which such director is interested, provided that such interest is disclosed prior to the vote.

### ***Limitations on Liability and Indemnification of Officers and Directors***

The charter includes a provision that eliminates the personal liability of directors for monetary damages to the corporation or its shareholders for any breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under Cayman Island law. The effect of these provisions is to eliminate the rights of New ProKidney and its shareholders, through shareholders' derivative suits on New ProKidney's behalf, to recover monetary damages from a director for breach of fiduciary duty as a director, including breaches resulting from grossly negligent behavior. However, exculpation does not apply to any director if the director has breached such director's duty of loyalty, acted in bad faith, knowingly or intentionally violated the law, authorized illegal dividends, redemptions or repurchases or derived an improper benefit from his or her actions as a director.

The limitation of liability provision in the charter may discourage shareholders from bringing a lawsuit against directors for breach of their fiduciary duty. These provisions also may have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit New ProKidney and its shareholders. In addition, such shareholders' investments may be adversely affected to the extent New ProKidney pays the costs of settlement and damage awards against directors and officers pursuant to these indemnification provisions.

### **Item 4.01. Change in Registrant's Certifying Accountant.**

On July 11, 2022, the audit committee of the New ProKidney board of directors dismissed Marcum LLP ("Marcum"), SCS's independent registered public accounting firm prior to the Business Combination, as the Company's independent registered public accounting firm following completion of Marcum's review of SCS's financial statements for the quarter ended June 30, 2022, which consists only of the accounts of the pre-Business Combination special purpose acquisition company, SCS, and appointed Ernst & Young LLP ("EY") as the Company's independent registered public accounting firm to audit the Company's consolidated financial statements for the year ending December 31, 2022.

The reports of Marcum on SCS's balance sheet as of December 31, 2021, and the statement of operations, changes in shareholders' equity and cash flows for the period from February 25, 2021 (inception) through December 31, 2021, did not contain an adverse opinion or a disclaimer of opinion, and were not qualified or modified as to uncertainties, audit scope or accounting principles.

During the audit for the period from February 25, 2021 (inception) through December 31, 2021, and reviews of the unaudited condensed financial statements for the three months ended March 31, 2022, there were no disagreements between the Company and Marcum on any matter of accounting principles or practices, financial disclosure or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of Marcum, would have caused it to make reference to the subject matter of the disagreements in its reports on SCS's financial statements for such periods.

During the period from February 25, 2021 (inception) through December 31, 2021, there were no "reportable events" (as defined in Item 304(a)(1)(v) of Regulation S-K under the Exchange Act), except that for the quarter ended March 31, 2022, based upon an evaluation of the effectiveness of the design and operation of its disclosure controls and procedures, the principal executive officer and the principal financial and accounting officer of SCS concluded that its disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) were not effective due to its accounting for complex financial instruments. Based on the foregoing, it was determined that SCS had a material weakness as of March 31, 2022 relating to its internal controls over financial reporting.

During the period from February 25, 2022 (inception) to the date the New ProKidney audit committee approved the engagement of EY as the Company's independent registered public accounting firm, SCS did not consult with EY on matters that involved the application of accounting

principles to a specified transaction, the type of audit opinion that might be rendered on SCS's consolidated financial statements or any other matter that was either the subject of a disagreement or reportable event.

The Company has provided Marcum with a copy of the foregoing disclosures and Marcum provided a letter to the SEC stating that it agrees with the statements made by the Company set forth above. A copy of Marcum's letter to the SEC, dated July 15, 2022, is filed as Exhibit 16.1 to this Current Report on Form 8-K.

**Item 5.01. Changes in Control of Registrant.**

The disclosure in the Proxy Statement in the section entitled “Proposal No. 1 - Business Combination Proposal,” beginning on page 208, is incorporated herein by reference. The information contained in Item 2.01 of this Current Report on Form 8-K is also incorporated herein by reference.

Immediately following the Closing, there were 232,264,192 ordinary shares outstanding. As of such time, New ProKidney’s executive officers and directors and their affiliated entities held 44.6% of New ProKidney’s outstanding ordinary shares.

**Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

At the Closing, all incumbent directors and officers of SCS, other than Uma Sinha, Ph.D., resigned from their respective positions with SCS. New ProKidney’s current directors and officers are described in the Proxy Statement in the section entitled “Management After the Business Combination” beginning on page 378, which description is incorporated by reference herein.

On July 11, 2022, the New ProKidney board of directors appointed Jennifer Fox as a member of the board of directors to serve until the 2024 annual meeting of shareholders and thereafter until her successor is duly elected and qualified or until her earlier death, resignation or removal. Ms. Fox has served as the Chief Financial Officer of Nuvation Bio Inc. since October 2020. Prior to this role, Ms. Fox served as Managing Director, Co-Head of North America Healthcare Corporate and Investment Banking Group at Citigroup from June 2015 to October 2020. From February 2006 to June 2015, Ms. Fox served as Managing Director at Deutsche Bank, and most recently also as Co-Head of Life Sciences Investment Banking Group. Prior to that, Ms. Fox served as Senior Managing Director Healthcare Investment Banking at Bear Stearns, Vice President Healthcare Investment Banking at Bank of America and Financial Analyst, Investment Banking Analyst, Associate, Vice President, Health Care Investment Banking at Prudential Vector Healthcare Group and Prudential Securities Incorporated. Ms. Fox received B.S. degrees in Finance and Marketing from Manhattan College. The New ProKidney board of directors believes that Ms. Fox is qualified to serve on the Board because she has over 25 years of experience in the healthcare investment banking and has been a lead advisor to life sciences companies on over 125 financing and strategic transactions. Ms. Fox will also serve as a member of the audit committee of the New ProKidney board of directors.

At the Extraordinary General Meeting, in connection with the Business Combination, New ProKidney adopted the Incentive Plan and the ESPP. The material features of the Incentive Plan and the ESPP are respectively described in the Proxy Statement in the sections entitled “Proposal No. 5 - Incentive Equity Plan Proposal” and “Proposal No. 6 - Employee Stock Purchase Plan Proposal” beginning on page 275 and 282, respectively, and such descriptions are incorporated herein by reference.

The information contained in Item 1.01 and Item 2.01 of this Current Report on Form 8-K is also incorporated herein by reference.

**Item 5.03. Amendments to Memorandum and Articles of Association.**

The information contained in Item 3.03 of this Current Report on Form 8-K is incorporated in this Item 5.03 by reference.

**Item 5.06. Change in Shell Company Status.**

On July 11, 2022, as a result of the consummation of the Business Combination, which fulfilled the “business combination” requirement of SCS’s amended and restated memorandum and articles of association, SCS ceased to be a shell company. The material terms of the Business Combination are described in the Proxy Statement in the section entitled “Proposal No. 1 - Business Combination Proposal” beginning on page 208 which description is incorporated herein by reference.



**Item 8.01 Other Events.**

The Class A ordinary shares are listed for trading on The Nasdaq Capital Market under the symbol “PROK” and the CUSIP numbers relating to the Class A ordinary shares is G7S53R104.

On July 12, 2022, the Company issued a press release announcing the consummation of the Business Combination. A copy of the press release is filed as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

**Item 9.01. Financial Statements and Exhibits.****(a) Financial Statements of Business Acquired.**

In accordance with Rule 12b-23 promulgated under the Securities Exchange Act of 1934, as amended (“Rule 12b-23”), ProKidney’s audited consolidated financial statements as of and for the years ended December 31, 2021 and 2020 and unaudited consolidated financial statements as of and for the three months ended March 31, 2022 are incorporated by reference to such financial statements appearing on pages FS-39 to FS-71 of the Proxy Statement.

**(b) Pro Forma Financial Information.**

In accordance with Rule 12b-23, unaudited pro forma condensed combined financial information regarding New ProKidney to reflect the consummation of the Business Combination is included as Exhibit 99.2 to this Report.

**(d) Exhibits**

<u>Exhibit No.</u>	<u>Description of Exhibit</u>
2.1	<a href="#"><u>Business Combination Agreement, dated as of January 18, 2022, by and between ProKidney Corp. (formerly known as Social Capital Suvretta Holdings Corp. III) (included as Annex A to the Proxy Statement filed with the SEC on June 10, 2022) (File No. 001-40560).</u></a>
2.2	<a href="#"><u>New GP Joinder, dated as of June 7, 2022 (included as Annex B to the Proxy Statement filed with the SEC on June 10, 2022) (File No. 001-40560).</u></a>
3.1*	<a href="#"><u>Second Amended &amp; Restated Memorandum and Articles of Association of ProKidney Corp.</u></a>
10.1*	<a href="#"><u>Tax Receivable Agreement, dated as of July 11, 2022, by and among ProKidney Corp. (formerly known as Social Capital Suvretta Holdings Corp. III), the TRA Party Representative (as defined therein) and the TRA Parties (as defined therein).</u></a>
10.2*	<a href="#"><u>Exchange Agreement, dated as of July 11, 2022, by and among ProKidney Corp. (formerly known as Social Capital Suvretta Holdings Corp. III), ProKidney LP, acting through its general partner ProKidney Corp. GP Limited, and certain holders named therein.</u></a>
10.3*	<a href="#"><u>Lock-up Agreement, dated as of July 11, 2022, by and among ProKidney Corp. (formerly known as Social Capital Suvretta Holdings Corp. III), SCS Sponsor III LLC, the Sponsor Key Holders (as defined therein) and the ProKidney Holders (as defined therein).</u></a>
10.4*	<a href="#"><u>Amended and Restated Registration Rights Agreement, dated as of July 11, 2022, by and among ProKidney Corp. (formerly known as Social Capital Suvretta Holdings Corp. III), SCS Sponsor III LLC, the ProKidney Holders (as defined therein), Marc Semigran, Uma Sinha, Sukumar Nagendran, David Spiegel and the Investor Stockholders (as defined therein).</u></a>

- 10.5\* [Second Amended and Restated Limited Partnership Agreement for a Limited Partnership Called ProKidney LP, dated as of July 11, 2022, by and among Tolerantia, LLC, Control Empresarial de Capitales, S.A. de C.V., ProKidney Management Equity LLC, ProKidney Corp. \(formerly known as Social Capital Suvretta Holdings Corp. III\), ProKidney Corp. GP Limited and ProKidney GP Limited.](#)
- 10.6 [Form of Promissory Note \(included as Annex H to the Proxy Statement filed with the SEC on June 10, 2022\) \(File No. 001-40560\).](#)
- 10.7 [Form of Subscription Agreement for Institutional Investors, dated as of January 18, 2022, by and between ProKidney Corp. \(formerly Social Capital Suvretta Holdings Corp. III\) and the subscriber parties thereto \(included as Annex K to the Proxy Statement filed with the SEC on June 10, 2022\) \(File No. 001-40560\).](#)
- 10.8 [Form of Subscription Agreement for Individual Investors, dated as of January 18, 2022, by and between ProKidney Corp. \(formerly Social Capital Suvretta Holdings Corp. III\) and the subscriber parties thereto \(included as Annex L to the Proxy Statement filed with the SEC on June 10, 2022\) \(File No. 001-40560\).](#)
- 10.9 [Sponsor Support Agreement, dated as of January 18, 2022, by and among ProKidney Corp. \(formerly Social Capital Suvretta Holdings Corp. III\), SCS Sponsor III LLC, ProKidney LP and the directors and officers named therein \(included as Annex O to the Proxy Statement filed with the SEC on June 10, 2022\) \(File No. 001-40560\).](#)
- 10.10 [Company Unitholder Support Agreement, dated as of January 18, 2022, by and among ProKidney Corp. \(formerly Social Capital Suvretta Holdings Corp. III\), ProKidney LP and the persons named therein \(included as Annex P to the Proxy Statement filed with the SEC on June 10, 2022\) \(File No. 001-40560\).](#)
- 10.11\* [ProKidney Corp. 2022 Incentive Equity Plan.](#)
- 10.12\* [ProKidney Corp. Employee Stock Purchase Plan.](#)
- 10.13\* [Form of Indemnification Agreement, dated as of July 11, 2022, by and among ProKidney Corp. and its directors and executive officers.](#)
- 16.1\* [Letter from Marcum LLP to the SEC, dated July 15, 2022.](#)
- 21.1\* [Subsidiaries of the Registrant.](#)
- 99.1\* [Press Release, dated July 12, 2022.](#)
- 99.2\* [Unaudited Pro Forma Condensed Combined Financial Information as of and for the three months ended March 31, 2022 and for the year ended December 31, 2021.](#)

\* Filed herewith.

† Schedules have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The registrant hereby undertakes to furnish copies of any of the omitted schedules upon request by the Securities and Exchange Commission.

**SIGNATURE**

Pursuant to the requirements of the Securities and Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**PROKIDNEY CORP.**

July 15, 2022

By: /s/ Timothy A. Bertram  
Name: Timothy A. Bertram  
Title: Chief Executive Officer

**THE COMPANIES ACT (AS REVISED)  
OF THE CAYMAN ISLANDS  
COMPANY LIMITED BY SHARES**

**SECOND AMENDED AND RESTATED  
MEMORANDUM AND ARTICLES OF ASSOCIATION**

**OF**

**PROKIDNEY CORP.**

**(ADOPTED BY SPECIAL RESOLUTION DATED JULY 11, 2022 AND EFFECTIVE ON JULY 11, 2022)**

**THE COMPANIES ACT (AS REVISED)  
OF THE CAYMAN ISLANDS  
COMPANY LIMITED BY SHARES**

**SECOND AMENDED AND RESTATED  
MEMORANDUM OF ASSOCIATION  
OF  
PROKIDNEY CORP.**

**(ADOPTED BY SPECIAL RESOLUTION DATED JULY 11, 2022 AND EFFECTIVE ON JULY 11, 2022)**

- 1 The name of the Company is ProKidney Corp.
- 2 The Registered Office of the Company shall be at the offices of Walkers Corporate Limited, 190 Elgin Avenue, George Town, Grand Cayman KY1-9008, Cayman Islands, or at such other place within the Cayman Islands as the Directors may decide.
- 3 The objects for which the Company is established are unrestricted and the Company shall have full power and authority to carry out any object not prohibited by the laws of the Cayman Islands.
- 4 The liability of each Member is limited to the amount, if any, unpaid on such Member's shares.
- 5 The share capital of the Company is US\$100,500 divided into 500,000,000 Class A ordinary shares of a par value of US\$0.0001 each, 500,000,000 Class B ordinary shares of a par value of US\$0.0001 each and 5,000,000 preference shares of a par value of US\$0.0001 each.
- 6 The Company has power to register by way of continuation as a body corporate limited by shares under the laws of any jurisdiction outside the Cayman Islands and to be deregistered in the Cayman Islands.
- 7 Capitalised terms that are not defined in this Amended and Restated Memorandum of Association bear the respective meanings given to them in the Amended and Restated Articles of Association of the Company.

**THE COMPANIES ACT (AS REVISED)  
OF THE CAYMAN ISLANDS  
COMPANY LIMITED BY SHARES**

**SECOND AMENDED AND RESTATED  
ARTICLES OF ASSOCIATION  
OF  
PROKIDNEY CORP.**

**(ADOPTED BY SPECIAL RESOLUTION DATED JULY 11, 2022 AND EFFECTIVE ON JULY 11, 2022)**

**1 Interpretation**

1.1 In the Articles Table A in the First Schedule to the Statute does not apply and, unless there is something in the subject or context inconsistent therewith:

- “Affiliate”** in respect of a person, means any other person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such person, and (a) in the case of a natural person, shall include, without limitation, such person’s spouse, parents, children, siblings, mother-in-law and father-in-law and brothers and sisters-in-law, whether by blood, marriage or adoption or anyone residing in such person’s home, a trust for the benefit of any of the foregoing, a company, partnership or any natural person or entity wholly or jointly owned by any of the foregoing and (b) in the case of an entity, shall include a partnership, a corporation or any natural person or entity which directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such entity.
- “Applicable Law”** means, with respect to any person, all provisions of laws, statutes, ordinances, rules, regulations, permits, certificates, judgments, decisions, decrees or orders of any governmental authority applicable to such person.
- “Articles”** means these amended and restated articles of association of the Company.
- “Audit Committee”** means the audit committee of the board of directors of the Company established pursuant to the Articles, or any successor committee.
- “Auditor”** means the person for the time being performing the duties of auditor of the Company (if any).

<b>“Business Combination Agreement”</b>	means the Business Combination Agreement dated 18 January 2022 between the Company and the Partnership.
<b>“business day”</b>	means any day other than a Saturday, a Sunday or a legal holiday or a day on which banking institutions or trust companies are authorised or obligated by law to close in New York City.
<b>“Class A Share”</b>	means a Class A ordinary share of a par value of US\$0.0001 in the share capital of the Company.
<b>“Class B PMEL RSRs”</b>	means the Restricted Stock Rights issued by the Company designated as “Class B PMEL RSRs”
<b>“Class B Series 1 RSRs”</b>	means the Restricted Stock Rights issued by the Company designated as “Class B Series 1 RSRs”.
<b>“Class B Series 2 RSRs”</b>	means the Restricted Stock Rights issued by the Company designated as “Class B Series 2 RSRs”.
<b>“Class B Series 3 RSRs”</b>	means the Restricted Stock Rights issued by the Company designated as “Class B Series 3 RSRs”.
<b>“Class B Share”</b>	means a Class B ordinary share of a par value of US\$0.0001 in the share capital of the Company.
<b>“Clearing House”</b>	means a clearing house recognised by the laws of the jurisdiction in which the Shares (or depositary receipts therefor) are listed or quoted on a stock exchange or interdealer quotation system in such jurisdiction.
<b>“Common Units”</b>	means the units of the Partnership designated as “Common Units” pursuant to the Partnership Agreement.
<b>“Company”</b>	means the above named company.
<b>“Company’s Website”</b>	means the website of the Company and/or its web-address or domain name (if any).
<b>“Compensation Committee”</b>	means the compensation committee of the board of directors of the Company established pursuant to the Articles, or any successor committee.
<b>“Designated Stock Exchange”</b>	means any United States national securities exchange on which the securities of the Company are listed for trading, including The Nasdaq Capital Market.

<b>“Directors”</b>	means each of the members of the board of directors of the Company.
<b>“Dividend”</b>	means any dividend (whether interim or final) resolved to be paid on Shares pursuant to the Articles.
<b>“Earnout Participants”</b>	means such persons as are entitled to receive Class B Series 1 RSRs, Class B Series 2 RSRs and Class B Series 3 RSRs on the terms and subject to the conditions of the Business Combination Agreement.
<b>“Effective Date”</b>	means July 11, 2022.
<b>“Electronic Communication”</b>	means a communication sent by electronic means, including electronic posting to the Company’s Website, transmission to any number, address or internet website (including the website of the Securities and Exchange Commission) or other electronic delivery methods as otherwise decided and approved by the Directors.
<b>“Electronic Record”</b>	has the same meaning as in the Electronic Transactions Act.
<b>“Electronic Transactions Act”</b>	means the Electronic Transactions Act (As Revised) of the Cayman Islands.
<b>“Exchange Act”</b>	means the United States Securities Exchange Act of 1934, as amended, or any similar U.S. federal statute and the rules and regulations of the Securities and Exchange Commission thereunder, all as the same shall be in effect at the time.
<b>“Exchange Agreement”</b>	means the Exchange Agreement dated the Effective Date among the Company, the Partnership acting through its General Partner and certain holders of interests in the Partnership party thereto.
<b>“General Partner”</b>	means ProKidney Corp. GP Limited.
<b>“Independent Director”</b>	has the same meaning as in the rules and regulations of the Designated Stock Exchange or in Rule 10A-3 under the Exchange Act, as the case may be.
<b>“Member”</b>	has the same meaning as in the Statute.
<b>“Memorandum”</b>	means the amended and restated memorandum of association of the Company.



<b>“Nominating and Corporate Governance Committee”</b>	means the nominating and corporate governance committee of the board of directors of the Company established pursuant to the Articles, or any successor committee.
<b>“Officer”</b>	means a person appointed to hold an office in the Company, which Officers may consist of a chairman, a chief executive officer, a president, a chief operating officer, a chief financial officer, a director of research, vice presidents, a secretary, assistant secretaries, a treasurer and such other offices as may be determined by the board of directors of the Company.
<b>“Ordinary Resolution”</b>	means a resolution passed by a simple majority of the Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting, and includes a unanimous written resolution. In computing the majority when a poll is demanded regard shall be had to the number of votes to which each Member is entitled by the Articles.
<b>“Paired Interest”</b>	means one Common Unit together with one Class B Share, subject to adjustment pursuant to the Partnership Agreement.
<b>“Partnership”</b>	means ProKidney LP, a limited partnership organized under the laws of Ireland.
<b>“Partnership Agreement”</b>	means the Second Amended and Restated Limited Partnership Deed of the Partnership, by and among the General Partner, the other Post-Combination Partnership Partners and the other persons that may become parties thereto from time to time, as the same may be amended, restated, supplemented and/or otherwise modified from time to time.
<b>“PMEL Post-Combination Company Unitholders”</b>	means such persons as are entitled to receive Class B PMEL RSRs on the terms and subject to the conditions of the Business Combination Agreement.
<b>“Post-Combination Partnership Partners”</b>	means holders of Common Units that are party to the Partnership Agreement from time to time.
<b>“Preference Share”</b>	means a preference share of a par value of US\$0.0001 in the share capital of the Company.
<b>“Register of Members”</b>	means the register of Members of the Company maintained in accordance with the Statute and includes (except where otherwise stated) any branch or duplicate register of Members.

<b>“Registered Office”</b>	means the registered office for the time being of the Company.
<b>“Restricted Stock Rights”</b>	means the Class B Series 1 RSRs, the Class B Series 2 RSRs, the Class B Series 3 RSRs and the Class B PMEL RSRs.
<b>“Seal”</b>	means the common seal of the Company and includes every duplicate seal.
<b>“Securities and Exchange Commission”</b>	means the United States Securities and Exchange Commission.
<b>“Share”</b>	means a Class A Share, a Class B Share, or a Preference Share and includes a fraction of a share in the Company.
<b>“Special Resolution”</b>	has the same meaning as in the Statute, and includes a unanimous written resolution.
<b>“Statute”</b>	means the Companies Act (As Revised) of the Cayman Islands.
<b>“Tax Filing Authorised Person”</b>	means such person as any Director shall designate from time to time, acting severally.
<b>“Treasury Share”</b>	means a Share held in the name of the Company as a treasury share in accordance with the Statute.

1.2 In the Articles:

- (a) words importing the singular number include the plural number and vice versa;
- (b) words importing the masculine gender include the feminine gender;
- (c) words importing persons include corporations as well as any other legal or natural person;
- (d) “written” and “in writing” include all modes of representing or reproducing words in visible form, including in the form of an Electronic Record;
- (e) “shall” shall be construed as imperative and “may” shall be construed as permissive;
- (f) references to provisions of any law or regulation shall be construed as references to those provisions as amended, modified, re-enacted or replaced;
- (g) any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;

- (h) the term “and/or” is used herein to mean both “and” as well as “or.” The use of “and/or” in certain contexts in no respects qualifies or modifies the use of the terms “and” or “or” in others. The term “or” shall not be interpreted to be exclusive and the term “and” shall not be interpreted to require the conjunctive (in each case, unless the context otherwise requires);
- (i) headings are inserted for reference only and shall be ignored in construing the Articles;
- (j) any requirements as to delivery under the Articles include delivery in the form of an Electronic Record;
- (k) any requirements as to execution or signature under the Articles including the execution of the Articles themselves can be satisfied in the form of an electronic signature as defined in the Electronic Transactions Act;
- (l) sections 8 and 19(3) of the Electronic Transactions Act shall not apply;
- (m) the term “clear days” in relation to the period of a notice means that period excluding the day when the notice is received or deemed to be received and the day for which it is given or on which it is to take effect; and
- (n) the term “holder” in relation to a Share means a person whose name is entered in the Register of Members as the holder of such Share.

## **2 Commencement of Business**

- 2.1 The business of the Company may be commenced as soon after incorporation of the Company as the Directors shall see fit.
- 2.2 The Directors may pay, out of the capital or any other monies of the Company, all expenses incurred in or about the formation and establishment of the Company, including the expenses of registration.

## **3 Issue of Shares and other Securities**

- 3.1 Subject to Article 3.2, Article 3.3, Article 3.4, the provisions, if any, in the Memorandum (and to any direction that may be given by the Company in general meeting) and, where applicable, the rules and regulations of the Designated Stock Exchange, the Securities and Exchange Commission and/or any other competent regulatory authority or otherwise under Applicable Law, and without prejudice to any rights attached to any existing Shares, the Directors may allot, issue, grant options over or otherwise dispose of Shares (including fractions of a Share) with or without preferred, deferred or other rights or restrictions, whether in regard to Dividends or other distributions, voting, return of capital or otherwise and to such persons, at such times and on such other terms as they think proper, and may also (subject to the Statute and the Articles) vary such rights.

- 3.2 The Company may from time to time issue Class A Shares on the terms and subject to the conditions set forth in the Exchange Agreement. The Company shall at all times reserve and keep available out of its authorised but unissued share capital, such number of Class A Shares as may be issued upon any exchange pursuant to and in accordance with the Exchange Agreement; provided that nothing contained herein shall be construed to preclude the Company from satisfying its obligations in respect of the Exchange Agreement by the sale of Class A Shares which are held in the treasury of the Company or are held by any of its subsidiaries or by the issuance/sale of purchased Class A Shares (which may or may not be held in the treasury of the Company or held by any of its subsidiaries), or by delivery of cash in accordance with the Exchange Agreement.
- 3.3 All Class A Shares that may be issued upon any such exchange pursuant to the Exchange Agreement shall, upon issuance, be validly issued, fully paid and non-assessable. All Class B Shares corresponding to the Class A Shares issued upon any such exchange shall automatically and without further action on the part of the Company or any holder of such Class B Shares be forfeited to the Company and cancelled upon such an Exchange.
- 3.4 To the extent Common Units are issued pursuant to the Partnership Agreement at any time and from time to time to any person other than the Company or a wholly-owned subsidiary of the Company, the Company shall issue an equivalent number of Class B Shares at par value to the same person to which such Common Units are issued.
- 3.5 Subject to Article 19, the Company may issue rights, options, warrants or convertible securities or securities of similar nature conferring the right upon the holders thereof to subscribe for, purchase or receive any class of Shares or other securities in the Company on such terms as the Directors may from time to time determine.
- 3.6 The Company may issue units of securities in the Company, which may be comprised of whole or fractional Shares, rights, options, warrants or convertible securities or securities of similar nature conferring the right upon the holders thereof to subscribe for, purchase or receive any class of Shares or other securities in the Company, upon such terms as the Directors may from time to time determine.
- 3.7 The Company shall not issue Shares to bearer.

#### **4 Class A Shares**

- 4.1 Class A Shares shall carry the right to receive notice of and to attend, to speak at and to vote at any general meeting of the Company.
- 4.2 In the event of a winding up or dissolution of the Company, whether voluntary or involuntary or for the purposes of a reorganisation or otherwise or upon any distribution of capital, the Class A Shares shall, subject to any Applicable Law and the rights, if any, of the holders of any outstanding Preference Shares, carry the right to receive all the remaining assets of the Company available for distribution to the Members, ratably in proportion to the number of Class A Shares held by them.
- 4.3 Class A Shares shall, subject to any Applicable Law and the rights, if any, of the holders of any outstanding Preference Shares, carry the right to receive such dividends and other distributions (payable in cash, property or shares of the Company) when, as and if declared thereon by the Directors from time to time out of any assets or funds of the Company legally available therefor, and shall share equally on a per share basis in such dividends and distributions.

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**5 Class B Shares**

- 5.1 Class B Shares shall carry the right to receive notice of and to attend, to speak at and to vote at any general meeting of the Company.
- 5.2 In the event of a winding up or dissolution of the Company, whether voluntary or involuntary or for the purposes of a reorganisation or otherwise or upon any distribution of capital, holders of Class B Shares shall be entitled, *pari passu* with the holders of Class A Shares, to an amount equal to the capital paid up on such Class B Shares. Class B Shares shall not carry any other right to participate in the profits or assets of the Company.
- 5.3 Class B Shares shall not carry the right to receive dividends or other distributions, and dividends and other distributions shall not be declared or paid on the Class B Shares, except by way of issue of further Class B Shares as a result of capitalisation pursuant to Article 42.
- 5.4 Class B Shares shall automatically and without further action on the part of the Company or any holder of such Class B Share be forfeited and cancelled on the terms and subject to the set forth in the Exchange Agreement.

**6 Register of Members**

- 6.1 The Company shall maintain or cause to be maintained the Register of Members in accordance with the Statute.
- 6.2 The Directors may determine that the Company shall maintain one or more branch registers of Members in accordance with the Statute. The Directors may also determine which register of Members shall constitute the principal register and which shall constitute the branch register or registers, and to vary such determination from time to time.

**7 Closing Register of Members or Fixing Record Date**

- 7.1 For the purpose of determining Members entitled to notice of, or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any Dividend or other distribution, or in order to make a determination of Members for any other purpose, the Directors may provide that the Register of Members shall be closed for transfers for a stated period which shall not in any case exceed 40 days.
- 7.2 In lieu of, or apart from, closing the Register of Members, the Directors may fix in advance or arrears a date as the record date for any such determination of Members entitled to notice of, or to vote at any meeting of the Members or any adjournment thereof, or for the purpose of determining the Members entitled to receive payment of any Dividend or other distribution, or in order to make a determination of Members for any other purpose.

- 7.3 If the Register of Members is not so closed and no record date is fixed for the determination of Members entitled to notice of, or to vote at, a meeting of Members or Members entitled to receive payment of a Dividend or other distribution, the date on which notice of the meeting is sent or the date on which the resolution of the Directors resolving to pay such Dividend or other distribution is passed, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Article, such determination shall apply to any adjournment thereof.

## **8 Certificates for Shares**

- 8.1 A Member shall only be entitled to a share certificate if the Directors resolve that share certificates shall be issued. Share certificates representing Shares, if any, shall be in such form as the Directors may determine. Share certificates shall be signed by one or more Directors or other person authorised by the Directors. The Directors may authorise certificates to be issued with the authorised signature(s) affixed by mechanical process. All certificates for Shares shall be consecutively numbered or otherwise identified and shall specify the Shares to which they relate. All certificates surrendered to the Company for transfer shall be cancelled and, subject to the Articles, no new certificate shall be issued until the former certificate representing a like number of relevant Shares shall have been surrendered and cancelled.
- 8.2 The Company shall not be bound to issue more than one certificate for Shares held jointly by more than one person and delivery of a certificate to one joint holder shall be a sufficient delivery to all of them.
- 8.3 If a share certificate is defaced, worn out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and on the payment of such expenses reasonably incurred by the Company in investigating evidence, as the Directors may prescribe, and (in the case of defacement or wearing out) upon delivery of the old certificate.
- 8.4 Every share certificate sent in accordance with the Articles will be sent at the risk of the Member or other person entitled to the certificate. The Company will not be responsible for any share certificate lost or delayed in the course of delivery.
- 8.5 Share certificates shall be issued within the relevant time limit as prescribed by the Statute, if applicable, or as the rules and regulations of the Designated Stock Exchange, the Securities and Exchange Commission and/or any other competent regulatory authority or otherwise under Applicable Law may from time to time determine, whichever is shorter, after the allotment or, except in the case of a Share transfer which the Company is for the time being entitled to refuse to register and does not register, after lodgement of a Share transfer with the Company.

## **9 Transfer of Shares**

- 9.1 Subject to the terms of the Articles, including Article 9.2, any Member may transfer all or any of his Shares by an instrument of transfer provided that such transfer complies with the rules and regulations of the Designated Stock Exchange, the Securities and Exchange Commission and/or any other competent regulatory authority or otherwise under Applicable Law. If the Shares in question were issued in conjunction with rights, options, warrants or units issued pursuant to the Articles on terms that one cannot be transferred without the other, the Directors shall refuse to register the transfer of any such Share without evidence satisfactory to them of the like transfer of such right, option, warrant or unit.

- 9.2 No holder of Class B Shares may transfer Class B Shares to any person unless such holder at the same time transfers a corresponding number of Common Units to the same person and otherwise in accordance with the provisions of the Partnership Agreement. If any outstanding Class B Share ceases to be held by a holder of the corresponding Common Unit such Class B Share shall automatically and without further action on the part of the Company or any holder of such Class B Share be forfeited to the Company for no consideration and cancelled.
- 9.3 The instrument of transfer of any Share shall be in writing in the usual or common form or in a form prescribed by the rules and regulations of the Designated Stock Exchange, the Securities and Exchange Commission and/or any other competent regulatory authority or otherwise under Applicable Law or in any other form approved by the Directors and shall be executed by or on behalf of the transferor (and if the Directors so require, signed by or on behalf of the transferee) and may be under hand or, if the transferor or transferee is a Clearing House or its nominee(s), by hand or by machine imprinted signature or by such other manner of execution as the Directors may approve from time to time. The transferor shall be deemed to remain the holder of a Share until the name of the transferee is entered in the Register of Members.

#### **10 Redemption, Repurchase and Surrender of Shares**

- 10.1 Subject to the provisions of the Statute, and, where applicable, the rules and regulations of the Designated Stock Exchange, the Securities and Exchange Commission and/or any other competent regulatory authority or otherwise under Applicable Law, the Company may issue Shares that are to be redeemed or are liable to be redeemed at the option of the Member or the Company. The redemption of such Shares shall be effected in such manner and upon such other terms as the Company may, by Special Resolution, determine before the issue of such Shares.
- 10.2 Subject to the provisions of the Statute, and, where applicable, the rules and regulations of the Designated Stock Exchange, the Securities and Exchange Commission and/or any other competent regulatory authority or otherwise under Applicable Law, the Company may purchase its own Shares (including any redeemable Shares) in such manner and on such other terms as the Directors may agree with the relevant Member. For the avoidance of doubt, redemptions, repurchases and surrenders of Shares in the circumstances described in this Article 10 shall not require further approval of the Members.
- 10.3 The Company may make a payment in respect of the redemption or purchase of its own Shares in any manner permitted by the Statute, including out of capital.
- 10.4 The Directors may accept the surrender for no consideration of any fully paid Share.

## **11 Treasury Shares**

- 11.1 The Directors may, prior to the purchase, redemption or surrender of any Share, determine that such Share shall be held as a Treasury Share.
- 11.2 The Directors may determine to cancel a Treasury Share or transfer a Treasury Share on such terms as they think proper (including, without limitation, for nil consideration).

## **12 Variation of Rights of Shares**

- 12.1 Subject to Article 3.1, if at any time the share capital of the Company is divided into different classes of Shares, all or any of the rights attached to any class (unless otherwise provided by the terms of issue of the Shares of that class) may, whether or not the Company is being wound up, be varied without the consent of the holders of the issued Shares of that class where such variation is considered by the Directors not to have an adverse effect upon such rights (it being noted that a variation to the rights attached to the Class B Shares shall be deemed to be an adverse variation to rights attached to the Class A Shares); otherwise, any such variation shall be made only with the consent in writing of the holders of not less than three fourths of the issued Shares of that class, or with the approval of a resolution passed by a majority of not less than three fourths of the issued Shares of that class at a separate meeting of the holders of the Shares of that class. For the avoidance of doubt, the Directors reserve the right, notwithstanding that any such variation may not have an adverse effect, to obtain consent from the holders of Shares of the relevant class. To any such meeting all the provisions of the Articles relating to general meetings shall apply *mutatis mutandis*, except that the necessary quorum shall be one or more persons holding or representing by proxy at least one third of the issued Shares of the class and that any holder of Shares of the class present in person or by proxy may demand a poll.
- 12.2 For the purposes of a separate class meeting, the Directors may treat two or more or all the classes of Shares as forming one class of Shares if the Directors consider that such class of Shares would be affected in the same way by the proposals under consideration, but in any other case shall treat them as separate classes of Shares.
- 12.3 The rights conferred upon the holders of the Shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith or Shares issued with preferred or other rights.

## **13 Commission on Sale of Shares**

The Company may, in so far as the Statute permits, pay a commission to any person in consideration of his subscribing or agreeing to subscribe (whether absolutely or conditionally) or procuring or agreeing to procure subscriptions (whether absolutely or conditionally) for any Shares. Such commissions may be satisfied by the payment of cash and/or the issue of fully or partly paid-up Shares. The Company may also on any issue of Shares pay such brokerage as may be lawful.



#### **14 Non Recognition of Trusts**

The Company shall not be bound by or compelled to recognise in any way (even when notified) any equitable, contingent, future or partial interest in any Share, or (except only as is otherwise provided by the Articles or the Statute) any other rights in respect of any Share other than an absolute right to the entirety thereof in the holder.

#### **15 Lien on Shares**

- 15.1 The Company shall have a first and paramount lien on all Shares (whether fully paid-up or not) registered in the name of a Member (whether solely or jointly with others) for all debts, liabilities or engagements to or with the Company (whether presently payable or not) by such Member or his estate, either alone or jointly with any other person, whether a Member or not, but the Directors may at any time declare any Share to be wholly or in part exempt from the provisions of this Article. The registration of a transfer of any such Share shall operate as a waiver of the Company's lien thereon. The Company's lien on a Share shall also extend to any amount payable in respect of that Share.
- 15.2 The Company may sell, in such manner as the Directors think fit, any Shares on which the Company has a lien, if a sum in respect of which the lien exists is presently payable, and is not paid within 14 clear days after notice has been received or deemed to have been received by the holder of the Shares, or to the person entitled to it in consequence of the death or bankruptcy of the holder, demanding payment and stating that if the notice is not complied with the Shares may be sold.
- 15.3 To give effect to any such sale the Directors may authorise any person to execute an instrument of transfer of the Shares sold to, or in accordance with the directions of, the purchaser. The purchaser or his nominee shall be registered as the holder of the Shares comprised in any such transfer, and he shall not be bound to see to the application of the purchase money, nor shall his title to the Shares be affected by any irregularity or invalidity in the sale or the exercise of the Company's power of sale under the Articles.
- 15.4 The net proceeds of such sale after payment of costs, shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable and any balance shall (subject to a like lien for sums not presently payable as existed upon the Shares before the sale) be paid to the person entitled to the Shares at the date of the sale.

#### **16 Call on Shares**

- 16.1 Subject to the terms of the allotment and issue of any Shares, the Directors may make calls upon the Members in respect of any monies unpaid on their Shares (whether in respect of par value or premium), and each Member shall (subject to receiving at least 14 clear days' notice specifying the time or times of payment) pay to the Company at the time or times so specified the amount called on the Shares. A call may be revoked or postponed, in whole or in part, as the Directors may determine. A call may be required to be paid by instalments. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the Shares in respect of which the call was made.

- 16.2 A call shall be deemed to have been made at the time when the resolution of the Directors authorising such call was passed.
- 16.3 The joint holders of a Share shall be jointly and severally liable to pay all calls in respect thereof.
- 16.4 If a call remains unpaid after it has become due and payable, the person from whom it is due shall pay interest on the amount unpaid from the day it became due and payable until it is paid at such rate as the Directors may determine (and in addition all expenses that have been incurred by the Company by reason of such non-payment), but the Directors may waive payment of the interest or expenses wholly or in part.
- 16.5 An amount payable in respect of a Share on issue or allotment or at any fixed date, whether on account of the par value of the Share or premium or otherwise, shall be deemed to be a call and if it is not paid all the provisions of the Articles shall apply as if that amount had become due and payable by virtue of a call.
- 16.6 The Directors may issue Shares with different terms as to the amount and times of payment of calls, or the interest to be paid.
- 16.7 The Directors may, if they think fit, receive an amount from any Member willing to advance all or any part of the monies uncalled and unpaid upon any Shares held by him, and may (until the amount would otherwise become payable) pay interest at such rate as may be agreed upon between the Directors and the Member paying such amount in advance.
- 16.8 No such amount paid in advance of calls shall entitle the Member paying such amount to any portion of a Dividend or other distribution payable in respect of any period prior to the date upon which such amount would, but for such payment, become payable.

#### **17 Forfeiture of Shares**

- 17.1 If a call or instalment of a call remains unpaid after it has become due and payable the Directors may give to the person from whom it is due not less than 14 clear days' notice requiring payment of the amount unpaid together with any interest which may have accrued and any expenses incurred by the Company by reason of such non-payment. The notice shall specify where payment is to be made and shall state that if the notice is not complied with the Shares in respect of which the call was made will be liable to be forfeited.
- 17.2 If the notice is not complied with, any Share in respect of which it was given may, before the payment required by the notice has been made, be forfeited by a resolution of the Directors. Such forfeiture shall include all Dividends, other distributions or other monies payable in respect of the forfeited Share and not paid before the forfeiture.
- 17.3 A forfeited Share may be sold, re-allotted or otherwise disposed of on such terms and in such manner as the Directors think fit and at any time before a sale, re-allotment or disposition the forfeiture may be cancelled on such terms as the Directors think fit. Where for the purposes of its disposal a forfeited Share is to be transferred to any person the Directors may authorise some person to execute an instrument of transfer of the Share in favour of that person.

- 17.4 A person any of whose Shares have been forfeited shall cease to be a Member in respect of them and shall surrender to the Company for cancellation the certificate for the Shares forfeited and shall remain liable to pay to the Company all monies which at the date of forfeiture were payable by him to the Company in respect of those Shares together with interest at such rate as the Directors may determine, but his liability shall cease if and when the Company shall have received payment in full of all monies due and payable by him in respect of those Shares.
- 17.5 A certificate in writing under the hand of one Director or Officer that a Share has been forfeited on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share. The certificate shall (subject to the execution of an instrument of transfer) constitute a good title to the Share and the person to whom the Share is sold or otherwise disposed of shall not be bound to see to the application of the purchase money, if any, nor shall his title to the Share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the Share.
- 17.6 The provisions of the Articles as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a Share, becomes payable at a fixed time, whether on account of the par value of the Share or by way of premium as if it had been payable by virtue of a call duly made and notified.

## **18 Transmission of Shares**

- 18.1 If a Member dies, the survivor or survivors (where he was a joint holder), or his legal personal representatives (where he was a sole holder), shall be the only persons recognised by the Company as having any title to his Shares. The estate of a deceased Member is not thereby released from any liability in respect of any Share, for which he was a joint or sole holder.
- 18.2 Any person becoming entitled to a Share in consequence of the death or bankruptcy or liquidation or dissolution of a Member (or in any other way than by transfer) may, upon such evidence being produced as may be required by the Directors, elect, by a notice in writing sent by him to the Company, either to become the holder of such Share or to have some person nominated by him registered as the holder of such Share. If he elects to have another person registered as the holder of such Share he shall sign an instrument of transfer of that Share to that person. The Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the Share by the relevant Member before his death or bankruptcy or liquidation or dissolution, as the case may be.
- 18.3 A person becoming entitled to a Share by reason of the death or bankruptcy or liquidation or dissolution of a Member (or in any other case than by transfer) shall be entitled to the same Dividends, other distributions and other advantages to which he would be entitled if he were the holder of such Share. However, he shall not, before becoming a Member in respect of a Share, be entitled in respect of it to exercise any right conferred by membership in relation to general meetings of the Company and the Directors may at any time give notice requiring any such person to elect either to be registered himself or to have some person nominated by him be registered as the holder of the Share (but the Directors

shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the Share by the relevant Member before his death or bankruptcy or liquidation or dissolution or any other case than by transfer, as the case may be). If the notice is not complied with within 90 days of being received or deemed to be received (as determined pursuant to the Articles), the Directors may thereafter withhold payment of all Dividends, other distributions, bonuses or other monies payable in respect of the Share until the requirements of the notice have been complied with.

## **19 Restricted Stock Rights**

- 19.1 The Company has issued Restricted Stock Rights to certain Earnout Participants and PMEL Post-Combination Company Unitholders on the terms and subject to the conditions set forth in the Business Combination Agreement. At such time and from time to time if and as Restricted Stock Rights vest, the Company shall issue one Class B Share in satisfaction of its obligations in respect of each such Restricted Stock Right to the Earnout Participants or PMEL Post-Combination Company Unitholders, as applicable, on the terms and subject to the conditions set forth in the Business Combination Agreement and without the need for further action on the part of Company or any Earnout Participant or PMEL Post-Combination Company Unitholder, as applicable, and the Company shall forthwith on the issue of such Class B Shares enter the relevant Earnout Participant or PMEL Post-Combination Company Unitholder, as applicable, in the Register of Members as the holder of such Class B Shares.
- 19.2 No Holder of Restricted Stock Rights shall have any right as a Member (including any right to attend meetings, vote, or receive any dividend, distribution or other payment of any kind in respect of its Restricted Stock Rights, or any Class B Shares issuable in respect thereof), in each case, unless and until such Class B Shares have been issued and recorded on the Register of Members.

## **20 Amendments of Memorandum and Articles of Association and Alteration of Capital**

- 20.1 The Company may by Ordinary Resolution:
- (a) increase its share capital by such sum as the Ordinary Resolution shall prescribe and with such rights, priorities and privileges annexed thereto, as the Company in general meeting may determine;
  - (b) consolidate and divide all or any of its share capital into Shares of larger amount than its existing Shares;
  - (c) convert all or any of its paid-up Shares into stock, and reconvert that stock into paid-up Shares of any denomination;
  - (d) by subdivision of its existing Shares or any of them divide the whole or any part of its share capital into Shares of smaller amount than is fixed by the Memorandum or into Shares without par value; and
  - (e) cancel any Shares that at the date of the passing of the Ordinary Resolution have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the Shares so cancelled.

- 20.2 All new Shares created in accordance with the provisions of this Article 20 shall be subject to the same provisions of the Articles with reference to the payment of calls, liens, transfer, transmission, forfeiture and otherwise as the Shares in the original share capital.
- 20.3 Subject to the provisions of the Statute, the provisions of the Articles as regards the matters to be dealt with by Ordinary Resolution, the Company may by Special Resolution:
- (a) change its name;
  - (b) alter or add to the Articles;
  - (c) alter or add to the Memorandum with respect to any objects, powers or other matters specified therein; and
  - (d) reduce its share capital or any capital redemption reserve fund.

## **21 Offices and Places of Business**

Subject to the provisions of the Statute, the Company may by resolution of the Directors change the location of its Registered Office. The Company may, in addition to its Registered Office, maintain such other offices or places of business as the Directors determine.

## **22 General Meetings**

- 22.1 All general meetings other than annual general meetings shall be called extraordinary general meetings.
- 22.2 The Company may, but shall not (unless required by the Statute) be obliged to, in each year hold a general meeting as its annual general meeting, and shall specify the meeting as such in the notices calling it. Any annual general meeting shall be held at such time and place as the Directors shall appoint. At these meetings the report of the Directors (if any) shall be presented.
- 22.3 The Directors, the chief executive officer or the chairman of the board of directors of the Company may call general meetings, and, for the avoidance of doubt, Members shall not have the ability to call general meetings.
- 22.4 Members seeking to bring business before the annual general meeting or to nominate candidates for appointment as Directors at the annual general meeting must deliver notice to the principal executive offices of the Company not less than 120 calendar days before the date of the Company's proxy statement released to Members in connection with the previous year's annual general meeting or, if the Company did not hold an annual general meeting the previous year, or if the date of the current year's annual general meeting has been changed by more than 30 days from the date of the previous year's annual general meeting, then the deadline shall be set by the board of directors of the Company with such deadline being a reasonable time before the Company begins to print and send its related proxy materials.

## **23 Notice of General Meetings**

- 23.1 At least five clear days' notice shall be given of any general meeting. Every notice shall specify the place, the day and the hour of the meeting and the general nature of the business to be conducted at the general meeting and shall be given in the manner hereinafter mentioned or in such other manner if any as may be prescribed by the Company, provided that a general meeting of the Company shall, whether or not the notice specified in this Article has been given and whether or not the provisions of the Articles regarding general meetings have been complied with, be deemed to have been duly convened if it is so agreed:
- (a) in the case of an annual general meeting, by all of the Members entitled to attend and vote thereat; and
  - (b) in the case of an extraordinary general meeting, by a majority in number of the Members having a right to attend and vote at the meeting, together holding not less than 95 per cent in par value of the Shares giving that right.
- 23.2 The accidental omission to give notice of a general meeting to, or the non-receipt of notice of a general meeting by, any person entitled to receive such notice shall not invalidate the proceedings of that general meeting.

## **24 Proceedings at General Meetings**

- 24.1 No business shall be transacted at any general meeting unless a quorum is present. The holders of a majority of the Shares entitled to vote at a general meeting, being individuals present in person or by proxy or if a corporation or other non-natural person by its duly authorised representative or proxy, shall be a quorum.
- 24.2 A person may participate at a general meeting by conference telephone or other communications equipment by means of which all the persons participating in the meeting can communicate with each other. Participation by a person in a general meeting in this manner is treated as presence in person at that meeting.
- 24.3 A resolution (including a Special Resolution) in writing (in one or more counterparts) signed by or on behalf of all of the Members for the time being entitled to receive notice of and to attend and vote at general meetings (or, being corporations or other non-natural persons, signed by their duly authorised representatives) shall be as valid and effective as if the resolution had been passed at a general meeting of the Company duly convened and held.
- 24.4 If a quorum is not present within half an hour from the time appointed for the meeting to commence, the meeting shall stand adjourned to the same day in the next week at the same time and/or place or to such other day, time and/or place as the Directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting to commence, the Members present shall be a quorum.

- 24.5 The Directors may, at any time prior to the time appointed for the meeting to commence, appoint any person to act as chairman of a general meeting of the Company or, if the Directors do not make any such appointment, the chairman, if any, of the board of directors of the Company shall preside as chairman at such general meeting. If there is no such chairman, or if he shall not be present within fifteen minutes after the time appointed for the meeting to commence, or is unwilling to act, the Directors present shall elect one of their number to be chairman of the meeting.
- 24.6 If no Director is willing to act as chairman or if no Director is present within fifteen minutes after the time appointed for the meeting to commence, the Members present shall choose one of their number to be chairman of the meeting.
- 24.7 The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 24.8 When a general meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Otherwise it shall not be necessary to give any such notice of an adjourned meeting.
- 24.9 If a notice is issued in respect of a general meeting and the Directors, in their absolute discretion, consider that it is impractical or undesirable for any reason to hold that general meeting at the place, the day and the hour specified in the notice calling such general meeting, the Directors may postpone the general meeting to another place, day and/or hour provided that notice of the place, the day and the hour of the rearranged general meeting is promptly given to all Members. No business shall be transacted at any postponed meeting other than the business specified in the notice of the original meeting.
- 24.10 When a general meeting is postponed for 30 days or more, notice of the postponed meeting shall be given as in the case of an original meeting. Otherwise it shall not be necessary to give any such notice of a postponed meeting. All proxy forms submitted for the original general meeting shall remain valid for the postponed meeting. The Directors may postpone a general meeting which has already been postponed.
- 24.11 A resolution put to the vote of the meeting shall be decided on a poll.
- 24.12 A poll shall be taken as the chairman directs, and the result of the poll shall be deemed to be the resolution of the general meeting at which the poll was demanded.
- 24.13 A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such date, time and place as the chairman of the general meeting directs, and any business other than that upon which a poll has been demanded or is contingent thereon may proceed pending the taking of the poll.

24.14 In the case of an equality of votes the chairman shall be entitled to a second or casting vote.

**25 Votes of Members**

- 25.1 Subject to any rights or restrictions attached to any Shares, every Member present in any such manner shall have one vote for every Share of which he is the holder. The Class A Shares and Class B Shares shall vote together as a single class on all matters (subject to Article 12).
- 25.2 In the case of joint holders the vote of the senior holder who tenders a vote, whether in person or by proxy (or, in the case of a corporation or other non-natural person, by its duly authorised representative or proxy), shall be accepted to the exclusion of the votes of the other joint holders, and seniority shall be determined by the order in which the names of the holders stand in the Register of Members.
- 25.3 A Member of unsound mind, or in respect of whom an order has been made by any court, having jurisdiction in lunacy, may vote by his committee, receiver, curator bonis, or other person on such Member's behalf appointed by that court, and any such committee, receiver, curator bonis or other person may vote by proxy.
- 25.4 No person shall be entitled to vote at any general meeting unless he is registered as a Member on the record date for such meeting nor unless all calls or other monies then payable by him in respect of Shares have been paid.
- 25.5 No objection shall be raised as to the qualification of any voter except at the general meeting or adjourned general meeting at which the vote objected to is given or tendered and every vote not disallowed at the meeting shall be valid. Any objection made in due time in accordance with this Article shall be referred to the chairman whose decision shall be final and conclusive.
- 25.6 Votes may be cast either personally or by proxy (or in the case of a corporation or other non-natural person by its duly authorised representative or proxy). A Member may appoint more than one proxy or the same proxy under one or more instruments to attend and vote at a meeting. Where a Member appoints more than one proxy the instrument of proxy shall specify the number of Shares in respect of which each proxy is entitled to exercise the related votes.
- 25.7 A Member holding more than one Share need not cast the votes in respect of his Shares in the same way on any resolution and therefore may vote a Share or some or all such Shares either for or against a resolution and/or abstain from voting a Share or some or all of the Shares and, subject to the terms of the instrument appointing him, a proxy appointed under one or more instruments may vote a Share or some or all of the Shares in respect of which he is appointed either for or against a resolution and/or abstain from voting a Share or some or all of the Shares in respect of which he is appointed.



## **26 Proxies**

- 26.1 The instrument appointing a proxy shall be in writing and shall be executed under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a corporation or other non-natural person, under the hand of its duly authorised representative. A proxy need not be a Member.
- 26.2 The Directors may, in the notice convening any meeting or adjourned meeting, or in an instrument of proxy sent out by the Company, specify the manner by which the instrument appointing a proxy shall be deposited and the place and the time (being not later than the time appointed for the commencement of the meeting or adjourned meeting to which the proxy relates) at which the instrument appointing a proxy shall be deposited. In the absence of any such direction from the Directors in the notice convening any meeting or adjourned meeting or in an instrument of proxy sent out by the Company, the instrument appointing a proxy shall be deposited physically at the Registered Office not less than 48 hours before the time appointed for the meeting or adjourned meeting to commence at which the person named in the instrument proposes to vote.
- 26.3 The chairman may in any event at his discretion declare that an instrument of proxy shall be deemed to have been duly deposited. An instrument of proxy that is not deposited in the manner permitted, or which has not been declared to have been duly deposited by the chairman, shall be invalid.
- 26.4 The instrument appointing a proxy may be in any usual or common form (or such other form as the Directors may approve) and may be expressed to be for a particular meeting or any adjournment thereof or generally until revoked. An instrument appointing a proxy shall be deemed to include the power to demand or join or concur in demanding a poll.
- 26.5 Votes given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the Share in respect of which the proxy is given unless notice in writing of such death, insanity, revocation or transfer was received by the Company at the Registered Office before the commencement of the general meeting, or adjourned meeting at which it is sought to use the proxy.

## **27 Corporate Members**

- 27.1 Any corporation or other non-natural person which is a Member may in accordance with its constitutional documents, or in the absence of such provision by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as the corporation could exercise if it were an individual Member.
- 27.2 If a Clearing House (or its nominee(s)), being a corporation, is a Member, it may authorise such persons as it sees fit to act as its representative at any meeting of the Company or at any meeting of any class of Members provided that the authorisation shall specify the number and class of Shares in respect of which each such representative is so authorised. Each person so authorised under the provisions of this Article shall be deemed to have been duly authorised without further evidence of the facts and be entitled to exercise the same rights and powers on behalf of the Clearing House (or its nominee(s)) as if such person was the registered holder of such Shares held by the Clearing House (or its nominee(s)).

**28 Shares that May Not be Voted**

Shares in the Company that are beneficially owned by the Company shall not be voted, directly or indirectly, at any meeting and shall not be counted in determining the total number of outstanding Shares at any given time.

**29 Directors**

29.1 There shall be a board of directors of the Company consisting of not less than one person. Subject to this Article 29.1 and the Business Combination Agreement, the Directors may increase or reduce the limits in the number of Directors.

**30 Powers of Directors**

30.1 Subject to the provisions of the Statute, the Memorandum and the Articles and to any directions given by Special Resolution, the business of the Company shall be managed by the Directors who may exercise all the powers of the Company. No alteration of the Memorandum or Articles and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. A duly convened meeting of Directors at which a quorum is present may exercise all powers exercisable by the Directors.

30.2 All cheques, promissory notes, drafts, bills of exchange and other negotiable or transferable instruments and all receipts for monies paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such manner as the Directors shall determine by resolution.

30.3 The Directors on behalf of the Company may pay a gratuity or pension or allowance on retirement to any Director who has held any other salaried office or place of profit with the Company or to his widow or dependants and may make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance.

30.4 The Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and assets (present and future) and uncalled capital or any part thereof and to issue debentures, debenture stock, mortgages, bonds and other such securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

**31 Appointment and Removal of Directors**

31.1 Subject to and as otherwise set out in the Articles, including Articles 29.1 and 31.2:

- (a) the Company may by Ordinary Resolution appoint any person to be a Director; and
- (b) a Director shall hold office until such time as they are removed from office by Special Resolution.

- 31.2 The board of directors of the Company shall consist of three classes, each holding three-year terms, with the term of the first class of Directors expiring at the first annual meeting of the Members following the Effective Date, the term of the second class of Directors expiring at the second annual meeting of Members following the Effective Date and the term of the third class of Directors expiring at the third annual meeting of Members following the Effective Date, and the class into which a Director is to be appointed shall be set out in the resolutions appointing such Director.
- 31.3 The Directors may appoint any person to be a Director, either to fill a vacancy or as an additional Director provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with the Articles as the maximum number of Directors.

### **32 Vacation of Office of Director**

The office of a Director shall be vacated if:

- (a) the Director gives notice in writing to the Company that he resigns the office of Director; or
- (b) the Director absents himself (for the avoidance of doubt, without being represented by proxy) from three consecutive meetings of the board of directors of the Company without special leave of absence from the Directors, and the Directors pass a resolution that he has by reason of such absence vacated office; or
- (c) the Director dies, becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- (d) the Director is found to be or becomes of unsound mind; or
- (e) all of the other Directors (being not less than two in number) determine that he should be removed as a Director, either by a resolution passed by all of the other Directors at a meeting of the Directors duly convened and held in accordance with the Articles or by a resolution in writing signed by all of the other Directors.

### **33 Proceedings of Directors**

- 33.1 The quorum for the transaction of the business of the Directors may be fixed by the Directors, and unless so fixed shall be a majority of the Directors then in office.
- 33.2 Subject to the provisions of the Articles, the Directors may regulate their proceedings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall have a second or casting vote.
- 33.3 A person may participate in a meeting of the Directors or any committee of Directors by conference telephone or other communications equipment by means of which all the persons participating in the meeting can communicate with each other at the same time. Participation by a person in a meeting in this manner is treated as presence in person at that meeting. Unless otherwise determined by the Directors, the meeting shall be deemed to be held at the place where the chairman is located at the start of the meeting.

- 33.4 A resolution in writing (in one or more counterparts) signed by all the Directors or all the members of a committee of the Directors or, in the case of a resolution in writing relating to the removal of any Director or the vacation of office by any Director, all of the Directors other than the Director who is the subject of such resolution shall be as valid and effectual as if it had been passed at a meeting of the Directors, or committee of Directors as the case may be, duly convened and held.
- 33.5 A Director may, or other Officer on the direction of a Director shall, call a meeting of the Directors by at least two days' notice in writing to every Director which notice shall set forth the general nature of the business to be considered unless notice is waived by all the Directors either at, before or after the meeting is held. To any such notice of a meeting of the Directors all the provisions of the Articles relating to the giving of notices by the Company to the Members shall apply *mutatis mutandis*.
- 33.6 The continuing Directors (or a sole continuing Director, as the case may be) may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number fixed by or pursuant to the Articles as the necessary quorum of Directors the continuing Directors or Director may act for the purpose of increasing the number of Directors to be equal to such fixed number, or of summoning a general meeting of the Company, but for no other purpose.
- 33.7 The Directors may elect a chairman of their board and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for the meeting to commence, the Directors present may choose one of their number to be chairman of the meeting.
- 33.8 All acts done by any meeting of the Directors or of a committee of the Directors shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any Director, and/or that they or any of them were disqualified, and/or had vacated their office and/or were not entitled to vote, be as valid as if every such person had been duly appointed and/or not disqualified to be a Director and/or had not vacated their office and/or had been entitled to vote, as the case may be.

**34 Presumption of Assent**

A Director who is present at a meeting of the board of directors of the Company at which action on any Company matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent from such action with the person acting as the chairman or secretary of the meeting before the adjournment thereof or shall forward such dissent by registered post to such person immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favour of such action.

### **35 Directors' Interests**

- 35.1 A Director may hold any other office or place of profit under the Company (other than the office of Auditor) in conjunction with his office of Director for such period and on such terms as to remuneration and otherwise as the Directors may determine.
- 35.2 A Director may act by himself or by, through or on behalf of his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for professional services as if he were not a Director.
- 35.3 A Director may be or become a director or other officer of or otherwise interested in any company promoted by the Company or in which the Company may be interested as a shareholder, a contracting party or otherwise, and no such Director shall be accountable to the Company for any remuneration or other benefits received by him as a director or officer of, or from his interest in, such other company.
- 35.4 No person shall be disqualified from the office of Director or prevented by such office from contracting with the Company, either as vendor, purchaser or otherwise, nor shall any such contract or any contract or transaction entered into by or on behalf of the Company in which any Director shall be in any way interested be or be liable to be avoided, nor shall any Director so contracting or being so interested be liable to account to the Company for any profit realised by or arising in connection with any such contract or transaction by reason of such Director holding office or of the fiduciary relationship thereby established. A Director shall be at liberty to vote in respect of any contract or transaction in which he is interested provided that the nature of the interest of any Director in any such contract or transaction shall be disclosed by him at or prior to its consideration and any vote thereon.
- 35.5 A general notice that a Director is a shareholder, director, officer or employee of any specified firm or company and is to be regarded as interested in any transaction with such firm or company shall be sufficient disclosure for the purposes of voting on a resolution in respect of a contract or transaction in which he has an interest, and after such general notice it shall not be necessary to give special notice relating to any particular transaction.

### **36 Minutes**

The Directors shall cause minutes to be made in books kept for the purpose of recording all appointments of Officers made by the Directors, all proceedings at meetings of the Company or the holders of any class of Shares and of the Directors, and of committees of the Directors, including the names of the Directors present at each meeting.

### **37 Delegation of Directors' Powers**

- 37.1 The Directors may delegate any of their powers, authorities and discretions, including the power to sub-delegate, to any committee consisting of one or more Directors (including, without limitation, the Audit Committee, the Compensation Committee and the Nominating and Corporate Governance Committee). Any such delegation may be made subject to any conditions the Directors may impose and either collaterally with or to the exclusion of their own powers and any such delegation may be revoked or altered by the Directors. Subject to any such conditions, the proceedings of a committee of Directors shall be governed by the Articles regulating the proceedings of Directors, so far as they are capable of applying.

- 37.2 The Directors may establish any committees, local boards or agencies or appoint any person to be a manager or agent for managing the affairs of the Company and may appoint any person to be a member of such committees, local boards or agencies. Any such appointment may be made subject to any conditions the Directors may impose, and either collaterally with or to the exclusion of their own powers and any such appointment may be revoked or altered by the Directors. Subject to any such conditions, the proceedings of any such committee, local board or agency shall be governed by the Articles regulating the proceedings of Directors, so far as they are capable of applying.
- 37.3 The Directors may adopt formal written charters for committees. Each of these committees shall be empowered to do all things necessary to exercise the rights of such committee set forth in the Articles and its charter and shall have such powers as the Directors may delegate pursuant to the Articles and as required by the rules and regulations of the Designated Stock Exchange, the Securities and Exchange Commission and/or any other competent regulatory authority or otherwise under Applicable Law. Each of the Audit Committee, the Compensation Committee and the Nominating and Corporate Governance Committee, if established, shall consist of such number of Directors as the Directors shall from time to time determine (or such minimum number as may be required from time to time by the rules and regulations of the Designated Stock Exchange, the Securities and Exchange Commission and/or any other competent regulatory authority or otherwise under Applicable Law). For so long as any class of Shares is listed on the Designated Stock Exchange, the Audit Committee, the Compensation Committee and the Nominating and Corporate Governance Committee shall be made up of such number of Independent Directors as is required from time to time by the rules and regulations of the Designated Stock Exchange, the Securities and Exchange Commission and/or any other competent regulatory authority or otherwise under Applicable Law.
- 37.4 The Directors may by power of attorney or otherwise appoint any person to be the agent of the Company on such conditions as the Directors may determine, provided that the delegation is not to the exclusion of their own powers and may be revoked by the Directors at any time.
- 37.5 The Directors may by power of attorney or otherwise appoint any company, firm, person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or authorised signatory of the Company for such purpose and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under the Articles) and for such period and subject to such conditions as they may think fit, and any such powers of attorney or other appointment may contain such provisions for the protection and convenience of persons dealing with any such attorneys or authorised signatories as the Directors may think fit and may also authorise any such attorney or authorised signatory to delegate all or any of the powers, authorities and discretions vested in him.
- 37.6 The Directors may appoint such Officers as they consider necessary on such terms, at such remuneration and to perform such duties, and subject to such provisions as to disqualification and removal as the Directors may think fit. Unless otherwise specified in the terms of his appointment, an Officer may be removed by resolution of the Directors or Members. An Officer may vacate his office at any time if he gives notice in writing to the Company that he resigns his office.

**38 No Minimum Shareholding**

The Company in general meeting may fix a minimum shareholding required to be held by a Director, but unless and until such a shareholding qualification is fixed a Director is not required to hold Shares.

**39 Remuneration of Directors**

- 39.1 The remuneration to be paid to the Directors, if any, shall be such remuneration as the Directors shall determine. The Directors shall also be entitled to be paid all travelling, hotel and other expenses properly incurred by them in connection with their attendance at meetings of Directors or committees of Directors, or general meetings of the Company, or separate meetings of the holders of any class of Shares or debentures of the Company, or otherwise in connection with the business of the Company or the discharge of their duties as a Director, or to receive a fixed allowance in respect thereof as may be determined by the Directors, or a combination partly of one such method and partly the other.
- 39.2 The Directors may by resolution approve additional remuneration to any Director for any services which in the opinion of the Directors go beyond his ordinary routine work as a Director. Any fees paid to a Director who is also counsel, attorney or solicitor to the Company, or otherwise serves it in a professional capacity shall be in addition to his remuneration as a Director.

**40 Seal**

- 40.1 The Company may, if the Directors so determine, have a Seal. The Seal shall only be used by the authority of the Directors or of a committee of the Directors authorised by the Directors. Every instrument to which the Seal has been affixed shall be signed by at least one person who shall be either a Director or some Officer or other person appointed by the Directors for the purpose.
- 40.2 The Company may have for use in any place or places outside the Cayman Islands a duplicate Seal or Seals each of which shall be a facsimile of the common Seal of the Company and, if the Directors so determine, with the addition on its face of the name of every place where it is to be used.
- 40.3 A Director or Officer, representative or attorney of the Company may without further authority of the Directors affix the Seal over his signature alone to any document of the Company required to be authenticated by him under seal or to be filed with the Registrar of Companies in the Cayman Islands or elsewhere wheresoever.

**41 Dividends, Distributions and Reserve**

- 41.1 Subject to the Statute and the Articles and except as otherwise provided by the rights attached to any Shares, the Directors may resolve to pay Dividends and other distributions on Shares in issue and authorise payment of the Dividends or other distributions out of the funds of the Company lawfully available therefor. A Dividend shall be deemed to be an interim Dividend unless the terms of the resolution pursuant to which the Directors resolve to pay such Dividend specifically state that such Dividend shall be a final Dividend. No Dividend or other distribution shall be paid except out of the realised or unrealised profits of the Company, out of the share premium account or as otherwise permitted by law.

- 41.2 Except as otherwise provided by the rights attached to any Shares, all Dividends and other distributions shall be paid according to the par value of the Shares that a Member holds. If any Share is issued on terms providing that it shall rank for Dividend as from a particular date, that Share shall rank for Dividend accordingly.
- 41.3 The Directors may deduct from any Dividend or other distribution payable to any Member all sums of money (if any) then payable by him to the Company on account of calls or otherwise.
- 41.4 The Directors may resolve that any Dividend or other distribution be paid wholly or partly by the distribution of specific assets and in particular (but without limitation) by the distribution of shares, debentures, or securities of any other company or in any one or more of such ways and where any difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient and in particular may issue fractional Shares and may fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any Members upon the basis of the value so fixed in order to adjust the rights of all Members and may vest any such specific assets in trustees in such manner as may seem expedient to the Directors.
- 41.5 Except as otherwise provided by the rights attached to any Shares, Dividends and other distributions may be paid in any currency. The Directors may determine the basis of conversion for any currency conversions that may be required and how any costs involved are to be met.
- 41.6 The Directors may, before resolving to pay any Dividend or other distribution, set aside such sums as they think proper as a reserve or reserves which shall, at the discretion of the Directors, be applicable for any purpose of the Company and pending such application may, at the discretion of the Directors, be employed in the business of the Company.
- 41.7 Any Dividend, other distribution, interest or other monies payable in cash in respect of Shares may be paid by wire transfer to the holder or by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of the holder who is first named on the Register of Members or to such person and to such address as such holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any Dividends, other distributions, bonuses, or other monies payable in respect of the Share held by them as joint holders.
- 41.8 No Dividend or other distribution shall bear interest against the Company.
- 41.9 Any Dividend or other distribution which cannot be paid to a Member and/or which remains unclaimed after six months from the date on which such Dividend or other distribution becomes payable may, in the discretion of the Directors, be paid into a separate account in the Company's name, provided that the Company shall not be constituted as a trustee in respect of that account and the Dividend or other distribution shall remain as a debt due to the Member. Any Dividend or other distribution which remains unclaimed after a period of six years from the date on which such Dividend or other distribution becomes payable shall be forfeited and shall revert to the Company.



## **42 Capitalisation**

The Directors may at any time capitalise any sum standing to the credit of any of the Company's reserve accounts or funds (including the share premium account and capital redemption reserve fund) or any sum standing to the credit of the profit and loss account or otherwise available for distribution; appropriate such sum to Members in the proportions in which such sum would have been divisible amongst such Members had the same been a distribution of profits by way of Dividend or other distribution; and apply such sum on their behalf in paying up in full unissued Shares for allotment and distribution credited as fully paid-up to and amongst them in the proportion aforesaid. In such event the Directors shall do all acts and things required to give effect to such capitalisation, with full power given to the Directors to make such provisions as they think fit in the case of Shares becoming distributable in fractions (including provisions whereby the benefit of fractional entitlements accrue to the Company rather than to the Members concerned). The Directors may authorise any person to enter on behalf of all of the Members interested into an agreement with the Company providing for such capitalisation and matters incidental or relating thereto and any agreement made under such authority shall be effective and binding on all such Members and the Company.

## **43 Books of Account**

- 43.1 The Directors shall cause proper books of account (including, where applicable, material underlying documentation including contracts and invoices) to be kept with respect to all sums of money received and expended by the Company and the matters in respect of which the receipt or expenditure takes place, all sales and purchases of goods by the Company and the assets and liabilities of the Company. Such books of account must be retained for a minimum period of five years from the date on which they are prepared. Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the Company's affairs and to explain its transactions.
- 43.2 The Directors shall determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of Members not being Directors and no Member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by Statute or authorised by the Directors or by the Company in general meeting.
- 43.3 The Directors may cause to be prepared and to be laid before the Company in general meeting profit and loss accounts, balance sheets, group accounts (if any) and such other reports and accounts as may be required by law.

#### **44 Audit**

- 44.1 The Directors may appoint an Auditor of the Company who shall hold office on such terms as the Directors determine.
- 44.2 Without prejudice to the freedom of the Directors to establish any other committee, if the Shares (or depositary receipts therefor) are listed or quoted on the Designated Stock Exchange, and if required by the rules and regulations of the Designated Stock Exchange, the Securities and Exchange Commission and/or any other competent regulatory authority or otherwise under Applicable Law, the Directors shall establish and maintain an Audit Committee as a committee of the Directors and shall adopt a formal written Audit Committee charter and review and assess the adequacy of the formal written charter on an annual basis. The composition and responsibilities of the Audit Committee shall comply with the rules and regulations of the Designated Stock Exchange, the Securities and Exchange Commission and/or any other competent regulatory authority or otherwise under Applicable Law.
- 44.3 If the Shares (or depositary receipts therefor) are listed or quoted on the Designated Stock Exchange, the Company shall conduct an appropriate review of all related party transactions on an ongoing basis and shall utilise the Audit Committee for the review and approval of potential conflicts of interest.
- 44.4 The remuneration of the Auditor shall be fixed by the Audit Committee (if one exists).
- 44.5 If the office of Auditor becomes vacant by resignation or death of the Auditor, or by his becoming incapable of acting by reason of illness or other disability at a time when his services are required, the Directors shall fill the vacancy and determine the remuneration of such Auditor.
- 44.6 Every Auditor of the Company shall have a right of access at all times to the books and accounts and vouchers of the Company and shall be entitled to require from the Directors and Officers such information and explanation as may be necessary for the performance of the duties of the Auditor.
- 44.7 Auditors shall, if so required by the Directors, make a report on the accounts of the Company during their tenure of office at the next annual general meeting following their appointment in the case of a company which is registered with the Registrar of Companies as an ordinary company, and at the next extraordinary general meeting following their appointment in the case of a company which is registered with the Registrar of Companies as an exempted company, and at any other time during their term of office, upon request of the Directors or any general meeting of the Members.

#### **45 Notices**

- 45.1 Notices shall be in writing and may be given by the Company to any Member either personally or by sending it by courier, post, cable, telex, fax or e-mail to him or to his address as shown in the Register of Members (or where the notice is given by e-mail by sending it to the e-mail address provided by such Member). Notice may also be served by Electronic Communication in accordance with the rules and regulations of the Designated Stock Exchange, the Securities and Exchange Commission and/or any other competent regulatory authority or by placing it on the Company's Website.

- 45.2 Where a notice is sent by:
- (a) courier; service of the notice shall be deemed to be effected by delivery of the notice to a courier company, and shall be deemed to have been received on the third day (not including Saturdays or Sundays or public holidays) following the day on which the notice was delivered to the courier;
  - (b) post; service of the notice shall be deemed to be effected by properly addressing, pre paying and posting a letter containing the notice, and shall be deemed to have been received on the fifth day (not including Saturdays or Sundays or public holidays in the Cayman Islands) following the day on which the notice was posted;
  - (c) cable, telex or fax; service of the notice shall be deemed to be effected by properly addressing and sending such notice and shall be deemed to have been received on the same day that it was transmitted;
  - (d) e-mail or other Electronic Communication; service of the notice shall be deemed to be effected by transmitting the e-mail to the e-mail address provided by the intended recipient and shall be deemed to have been received on the same day that it was sent, and it shall not be necessary for the receipt of the e-mail to be acknowledged by the recipient; and
  - (e) placing it on the Company's Website; service of the notice shall be deemed to have been effected one hour after the notice or document was placed on the Company's Website.
- 45.3 A notice may be given by the Company to the person or persons which the Company has been advised are entitled to a Share or Shares in consequence of the death or bankruptcy of a Member in the same manner as other notices which are required to be given under the Articles and shall be addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description at the address supplied for that purpose by the persons claiming to be so entitled, or at the option of the Company by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.
- 45.4 Notice of every general meeting shall be given in any manner authorised by the Articles to every holder of Shares carrying an entitlement to receive such notice on the record date for such meeting except that in the case of joint holders the notice shall be sufficient if given to the joint holder first named in the Register of Members and every person upon whom the ownership of a Share devolves by reason of his being a legal personal representative or a trustee in bankruptcy of a Member where the Member but for his death or bankruptcy would be entitled to receive notice of the meeting, and no other person shall be entitled to receive notices of general meetings.

## **46 Winding Up**

- 46.1 If the Company shall be wound up, the liquidator shall apply the assets of the Company in satisfaction of creditors' claims in such manner and order as such liquidator thinks fit. Subject to the Articles and the rights attaching to any Shares, in a winding up:
- (a) if the assets available for distribution amongst the Members shall be insufficient to repay the whole of the Company's issued share capital, such assets shall be distributed so that, as nearly as may be, the losses shall be borne by the Members in proportion to the par value of the Shares held by them; or
  - (b) if the assets available for distribution amongst the Members shall be more than sufficient to repay the whole of the Company's issued share capital at the commencement of the winding up, the surplus shall be distributed amongst the Members holding Class A Shares in proportion to the par value of the Class A Shares held by them at the commencement of the winding up subject to a deduction from those Class A Shares in respect of which there are monies due, of all monies payable to the Company for unpaid calls or otherwise.
- 46.2 If the Company shall be wound up the liquidator may, subject to the Articles and the rights attaching to any Shares and with the approval of a Special Resolution of the Company and any other approval required by the Statute, divide amongst the Members holding Class A Shares in kind the whole or any part of the assets of the Company (whether such assets shall consist of property of the same kind or not) and may for that purpose value any assets and determine how the division shall be carried out as between the Members holding Class A Shares. The liquidator may, with the like approval, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the Members holding Class A Shares as the liquidator, with the like approval, shall think fit, but so that no Member holding Class A Shares shall be compelled to accept any asset upon which there is a liability.

## **47 Indemnity and Insurance**

- 47.1 Every Director and Officer (which for the avoidance of doubt, shall not include auditors of the Company), together with every former Director and former Officer, including every former Director and every former Officer prior to the date hereof, (each an "**Indemnified Person**") shall be indemnified out of the assets of the Company against any liability, action, proceeding, claim, demand, costs, damages or expenses, including legal expenses, whatsoever which they or any of them may incur as a result of any act or failure to act in carrying out their functions other than such liability (if any) that they may incur by reason of their own actual fraud, wilful neglect or wilful default. No Indemnified Person shall be liable to the Company for any loss or damage incurred by the Company as a result (whether direct or indirect) of the carrying out of their functions unless that liability arises through the actual fraud, wilful neglect or wilful default of such Indemnified Person. No person shall be found to have committed actual fraud, wilful neglect or wilful default under this Article unless or until a court of competent jurisdiction shall have made a finding to that effect.
- 47.2 The Company shall advance to each Indemnified Person reasonable attorneys' fees and other costs and expenses incurred in connection with the defence of any action, suit, proceeding or investigation involving such Indemnified Person for which indemnity will or could be sought. In connection with any advance of any expenses hereunder, the Indemnified Person shall execute an undertaking to repay the advanced amount to the Company if it shall be determined by final judgment or other final adjudication that such Indemnified Person was not entitled to indemnification pursuant to this Article. If it shall be determined by a final judgment or other final adjudication that such Indemnified Person was not entitled to indemnification with respect to such judgment, costs or expenses, then such party shall not be indemnified with respect to such judgment, costs or expenses and any advancement shall be returned to the Company (without interest) by the Indemnified Person.

47.3 The Directors, on behalf of the Company, may purchase and maintain insurance for the benefit of any Director or Officer against any liability which, by virtue of any rule of law, would otherwise attach to such person in respect of any negligence, default, breach of duty or breach of trust of which such person may be guilty in relation to the Company.

**48 Financial Year**

Unless the Directors otherwise prescribe, the financial year of the Company shall end on 31st December in each year and, following the year of incorporation, shall begin on 1st January in each year.

**49 Transfer by Way of Continuation**

If the Company is exempted as defined in the Statute, it shall, subject to the provisions of the Statute and with the approval of a Special Resolution, have the power to register by way of continuation as a body corporate under the laws of any jurisdiction outside the Cayman Islands and to be deregistered in the Cayman Islands.

**50 Mergers and Consolidations**

The Company shall have the power to merge or consolidate with one or more other constituent companies (as defined in the Statute) upon such terms as the Directors may determine and (to the extent required by the Statute) with the approval of a Special Resolution.

**51 Certain Tax Filings**

Each Tax Filing Authorised Person and any such other person, acting alone, as any Director shall designate from time to time, are authorised to file tax forms SS-4, W-8 BEN, W-8 IMY, W-9, 8832 and 2553 and such other similar tax forms as are customary to file with any US state or federal governmental authorities or foreign governmental authorities in connection with the formation, activities and/or elections of the Company and such other tax forms as may be approved from time to time by any Director or Officer. The Company further ratifies and approves any such filing made by any Tax Filing Authorised Person or such other person prior to the date of the Articles.

**52 Business Opportunities**

52.1 To the fullest extent permitted by Applicable Law, no individual serving as a Director who is not also an employee of the Company or its subsidiaries (“**Specified Directors**”) shall have any duty, except and to the extent expressly assumed by contract, to refrain from engaging directly or indirectly in the same or similar business activities or lines of business as the Company. To the fullest extent permitted by Applicable Law, the Company renounces any interest or expectancy of the Company in, or in being offered an opportunity to participate in, any potential transaction or matter which may be a corporate opportunity for any Specified Director, on the one hand, and the Company, on the other. Except to the extent expressly assumed by contract, to the fullest extent permitted by Applicable Law, a Specified Director shall have no duty to communicate or offer any such corporate opportunity to the Company and shall not be liable to the Company or its Members for breach of any fiduciary duty as a Member or Director solely by reason of the fact that such Specified Director pursues or acquires such corporate opportunity for himself or herself, directs such corporate opportunity to another person, or does not communicate information regarding such corporate opportunity to the Company.

- 52.2 Notwithstanding anything to the contrary in this Article 52, this Article 52 shall not apply to any potential transaction or matter that may be a corporate opportunity for the Company or any of its subsidiaries presented to a Specified Director expressly in his or her capacity as a director of the Company or any of its subsidiaries.
- 52.3 To the extent a court might hold that the conduct of any activity related to a corporate opportunity that is renounced in this Article is a breach of duty to the Company or its Members, the Company hereby waives, to the fullest extent permitted by Applicable Law, any and all claims and causes of action that the Company may have for such activities. To the fullest extent permitted by Applicable Law, the provisions of this Article apply equally to activities conducted in the future and that have been conducted in the past.

TAX RECEIVABLE AGREEMENT

among

PROKIDNEY CORP.,

TRA PARTY REPRESENTATIVE

and

THE PERSONS NAMED HEREIN

Dated as of July 11, 2022

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## TAX RECEIVABLE AGREEMENT

This TAX RECEIVABLE AGREEMENT (this "Agreement"), dated as of July 11, 2022, is hereby entered into by and among ProKidney Corp., a Cayman Islands exempted company limited by shares (formerly known as Social Capital Suvretta Holdings Corp. III), ("Acquiror"), and together with its Subsidiaries, "Corporate Taxpayer", the TRA Party Representative and each of the other persons from time to time party hereto (the "TRA Parties"). Capitalized terms used but not defined herein have their respective meanings set forth in the BCA.

### RECITALS

WHEREAS, the TRA Parties directly or indirectly hold New Company Common Units of ProKidney LP, a limited partnership organized under the laws of Ireland (the "Partnership");

WHEREAS, Acquiror, Partnership, and the other parties thereto entered into that certain Business Combination Agreement, dated as of January 18, 2022 (as further amended or modified in whole or in part from time to time in accordance with such agreement, the "BCA"), pursuant to which, among other things, (a) the Partnership shall issue New Company Common Units to Acquiror in exchange for a combination of shares of Acquiror Class B Common Stock and cash, (b) ProKidney Corp. GP Limited shall be admitted as the general partner of the Partnership, and (c) the Partnership shall distribute the shares of Acquiror Class B Common Stock to the TRA Parties in accordance with the Partnership LPA (the "Business Combination");

WHEREAS, as of immediately following the Business Combination, ProKidney Corp. GP Limited is the sole voting partner of Partnership;

WHEREAS, Acquiror holds New Company Common Units that were received in exchange for Acquiror's contribution of amounts in cash via wire transfer of immediately available funds to Partnership in a transaction described under Section 721 of the Code;

WHEREAS, following the Business Combination, any New Company Common Units held by the TRA Parties, together with Acquiror Class B Common Stock, may be exchanged for Acquiror Class A Common Stock constituting the Stock Exchange Payment or, alternatively, at the election of Acquiror, the Cash Exchange Payment (an "Exchange"), pursuant to the provisions of the Partnership LPA and the Exchange Agreement, dated as of the date hereof, by and among Acquiror, Partnership, ProKidney Corp. GP Limited, and the TRA Parties, as amended from time to time (the "Exchange Agreement"), and in either case contributed to Partnership by Acquiror, provided that, at the election of Acquiror in its sole discretion and in accordance with the Exchange Agreement, Acquiror may effect a direct exchange of such cash or Acquiror Class A Common Stock for such New Company Common Units (a "Direct Exchange," which shall also constitute an Exchange);



WHEREAS, Partnership and each of its direct and indirect Subsidiaries that is treated as a partnership for U.S. federal income Tax purposes (but only if such indirect Subsidiaries are held only through Subsidiaries treated as partnerships or disregarded entities) will have in effect an election under Section 754 of the Code (a “Section 754 Election”) for the Taxable Year that includes the Closing Date and each subsequent Taxable Year in which an Exchange occurs, in each case, to the extent eligible to do so, and where applicable, will have in effect elections or legal structures to effect similar Tax treatment and maximize Basis Adjustments under other applicable non-U.S. Tax laws;

WHEREAS, as a result of future Exchanges and Section 754 Elections, the income, gain, deduction, loss, expense, and other Tax items of Corporate Taxpayer may be affected by (i) the Basis Adjustments and (ii) any deduction attributable to any payment (including amounts attributable to Imputed Interest) made under this Agreement (collectively, the “Tax Attributes”); and

WHEREAS, the parties to this Agreement desire to provide for certain payments and make certain arrangements with respect to the effect of the Tax Attributes on the liability for Taxes of Corporate Taxpayer.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, and intending to be legally bound hereby, the parties hereto agree as follows:

## **ARTICLE I** **DEFINITIONS**

Section 1.1 Certain Definitions. As used in this Agreement, the terms set forth in this Article I shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined).

“Actual Tax Liability” means, with respect to any Taxable Year, the actual liability for Taxes, which shall not be less than zero, of (i) Corporate Taxpayer and (ii) without duplication, Partnership and its Subsidiaries, but only with respect to Taxes imposed on Partnership and its Subsidiaries and allocable to Corporate Taxpayer.

“Affiliate” of any particular Person means any other Person controlling, controlled by or under common control with such Person, where “control” means the possession, directly or indirectly, of the power to direct the management and policies of a Person, whether through the ownership of voting securities, its capacity as a sole or managing member or otherwise. For purposes of this Agreement, no TRA Party shall be considered to be an Affiliate of Corporate Taxpayer or Partnership.

“Agreed Rate” means a per annum rate equal to SOFR plus 100 basis points.

“Attributable” means the portion of any Tax Attribute of Corporate Taxpayer or, without duplication, Partnership or its Subsidiaries, that is attributable to a TRA Party and shall be determined by reference to the Tax Attributes, under the following principles:

(i) any Basis Adjustments shall be determined separately with respect to each TRA Party and are Attributable to a TRA Party in an amount equal to the total Basis Adjustments relating to the New Company Common Units that are Exchanged by such TRA Party; and

(ii) any deduction to Corporate Taxpayer, as applicable, with respect to a Taxable Year in respect of any payment (including amounts attributable to Imputed Interest) made under this Agreement is Attributable to the Person that is required to include the Imputed Interest or other payment in income (without regard to whether such Person is actually subject to Tax thereon).

“Basis Adjustment” means the Tax basis of a Reference Asset (or a current tax deduction of the Corporate Taxpayer) directly or indirectly acquired by Corporate Taxpayer as a result of an Exchange (including any internal transactions of the Corporate Taxpayer following such Exchange intended to maximize the Tax basis or Tax benefits associated with the Reference Assets following the Exchange) and the payments made pursuant to this Agreement, including, without limitation, the adjustment to the Tax basis of a Reference Asset under Sections 732, 734(b) and/or 1012 of the Code (in situations where, as a result of one or more Exchanges, Partnership becomes an entity that is disregarded as separate from its owner for U.S. federal income Tax purposes) or under Sections 734(b), 743(b), 754 and/or 755 of the Code (in situations where, following an Exchange, Partnership remains in existence as an entity treated as a partnership for U.S. federal income Tax purposes), and, in each case, comparable sections of U.S. state and local and non-U.S. Tax laws. The amount of any Basis Adjustment shall be determined using the Market Value with respect to such Exchange, except, for the avoidance of doubt, as otherwise required by a Determination. For the avoidance of doubt, payments made under this Agreement shall not be treated as resulting in a Basis Adjustment to the extent such payments are treated as Imputed Interest, and the amount of any Basis Adjustment resulting from an Exchange of one or more New Company Common Units shall be determined without regard to any Pre-Exchange Transfer of such New Company Common Units and as if any such Pre-Exchange Transfer had not occurred.

A “Beneficial Owner” of a security is a Person who directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares: (i) voting power, which includes the power to vote, or to direct the voting of, such security and/or (ii) investment power, which includes the power to dispose of, or to direct the disposition of, such security. The term “Beneficial Ownership” shall have a correlative meaning.

“Board” means the Board of Directors of Acquiror.

“Business Day” means a day other than a Saturday, Sunday or other day on which commercial banks in New York, New York or Governmental Authorities in the Cayman Islands (for so long as Acquiror remains domiciled in Cayman Islands) are authorized or required by Law to close.

“Cash Exchange Payment” has the meaning set forth in the Exchange Agreement.

“Change of Control” means the occurrence of any of the following events:

(i) any Person or any group of Persons acting together, which would constitute a “group” for purposes of Section 13(d) of the Exchange Act or any successor provisions thereto (excluding (a) a corporation or other entity owned, directly or indirectly, by the stockholders of Acquiror in substantially the same proportions as their ownership of stock of Acquiror or (b) any TRA Party, any Permitted Transferee of any TRA Party, or any group of Persons in which one or more of the TRA Parties, the Permitted Transferees of any such TRA Party, or any Affiliates of such Persons directly or indirectly hold Beneficial Ownership of securities representing more than 50% of the total voting power held by such group) is or becomes the Beneficial Owner, directly or indirectly, of securities of Acquiror representing more than 50% of the combined voting power of Acquiror’s then outstanding voting securities; or

(ii) there is consummated a merger or consolidation of Acquiror with any other corporation or other entity, and, immediately after the consummation of such merger or consolidation, the voting securities of Acquiror immediately prior to such merger or consolidation do not continue to represent or are not converted into more than 50% of the combined voting power of the then outstanding voting securities of the Person resulting from such merger or consolidation or, if the surviving company is a Subsidiary, the ultimate parent thereof; or

(iii) the shareholders of Acquiror approve a plan of complete liquidation or dissolution of Acquiror or there is consummated an agreement or series of related agreements for the sale, lease or other disposition, directly or indirectly, by Acquiror of all or substantially all of the assets of Acquiror, taken as a whole, other than such sale or other disposition by Acquiror of all or substantially all of the assets of Acquiror, taken as a whole, to an entity at least 50% of the combined voting power of the voting securities of which are owned by shareholders of Acquiror in substantially the same proportions as their ownership of Acquiror immediately prior to such sale.

Notwithstanding the foregoing, a “Change of Control” shall not be deemed to have occurred by virtue of the consummation of any transaction or series of integrated transactions immediately following which the record holders of the shares of Acquiror immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in, and own substantially all of the shares of, an entity which owns all or substantially all of the assets of Acquiror immediately following such transaction or series of transactions.

“Closing Date” means the date of the consummation of the transactions contemplated by the BCA.

“Code” means the U.S. Internal Revenue Code of 1986, as amended.

“Companies Act” means the Companies Act (As Revised) of the Cayman Islands as the same may be amended from time to time.

“Corporate Taxpayer Return” means the U.S. federal, state, or local, or non-U.S. Tax Return, as applicable, of Corporate Taxpayer filed with respect to Taxes of any Taxable Year.

“Cumulative Net Realized Tax Benefit” for a Taxable Year means the cumulative amount of Realized Tax Benefits for all Taxable Years of Corporate Taxpayer, up to and including such Taxable Year, net of the cumulative amount of Realized Tax Detriments for the same period. The Realized Tax Benefit and Realized Tax Detriment for each Taxable Year shall be determined based on the most recent Tax Benefit Schedules or Amended Schedules, if any, in existence at the time of such determination; provided that the computation of the Cumulative Net Realized Tax Benefit shall be adjusted to reflect any applicable Determination with respect to any Realized Tax Benefits and/or Realized Tax Detriments.

“Default Rate” means a per annum rate equal to SOFR plus 500 basis points.

“Determination” shall have the meaning ascribed to such term in Section 1313(a) of the Code or similar provision of state or local or non-U.S. Tax law, as applicable, or any other event (including the execution of IRS Form 870-AD) that finally and conclusively establishes the amount of any liability for Tax.

“Early Termination Date” means the date of an Early Termination Notice for purposes of determining the Early Termination Payment.

“Early Termination Rate” means a per annum rate equal to SOFR plus 150 basis points.

“Exchange Date” means the date of any Exchange.

“Hypothetical Tax Liability” means, with respect to any Taxable Year, an amount, not less than zero, equal to the liability for Taxes of (i) Corporate Taxpayer and (ii) without duplication, Partnership and its Subsidiaries, but only with respect to Taxes imposed on Partnership and its Subsidiaries and allocable to Corporate Taxpayer, in each case determined using the same methods, elections, conventions and similar practices used in computing the Actual Tax Liability, but, in each case, (a) calculating depreciation, amortization or similar deductions and income, gain or loss using the Non-Stepped Up Tax Basis as reflected on the Basis Schedule including amendments thereto for the Taxable Year, and (b) excluding any deduction attributable to any payment (including amounts attributable to Imputed Interest) made under this Agreement for the Taxable Year. For the avoidance of doubt, Hypothetical Tax Liability shall be determined without taking into account the carryover or carryback of any Tax item (or portions thereof) that is attributable to a Tax Attribute, as applicable.

“Imputed Interest” in respect of a TRA Party shall mean any interest imputed under Section 1272, 1274 or 483 or other provision of the Code and any similar provision of state, local and non-U.S. Tax law, as applicable, with respect to Corporate Taxpayer’s payment obligations in respect of such TRA Party under this Agreement.

“IRS” means the U.S. Internal Revenue Service.

“Market Value” shall mean on any date, (a) if Acquiror Class A Common Stock trades on a national securities exchange or automated or electronic quotation system, the arithmetic average of the high trading and the low trading price on such date (or if such date is not a trading day, the immediately preceding trading day) or (b) if Acquiror Class A Common Stock is not then traded on a national securities exchange or automated or electronic quotation system, as applicable, the “Appraiser FMV” (as defined in the Exchange Agreement) on such date of one (1) share of Acquiror Class A Common Stock.

“Non-Stepped Up Tax Basis” means with respect to any Reference Asset at any time, the Tax basis that such asset would have had at such time if no Basis Adjustments had been made.

“Partnership LPA” means, with respect to Partnership, the Second Amended and Restated Limited Partnership Agreement of Partnership, dated on or about the date hereof, as amended from time to time.

“Permitted Transferee” has the meaning set forth in the Partnership LPA.

“Person” means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, governmental entity or other entity.

“Pre-Exchange Transfer” means any transfer (including upon the death of a member of Partnership) or distribution in respect of one or more New Company Common Units (a) that occurs prior to an Exchange of such New Company Common Units, and (b) to which Section 743(b) or 734(b) of the Code applies.

“Realized Tax Benefit” means, for a Taxable Year, the excess, if any, of the Hypothetical Tax Liability over the Actual Tax Liability. If all or a portion of the actual liability for such Taxes for the Taxable Year arises as a result of an audit by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Benefit unless and until there has been a Determination.

“Realized Tax Detriment” means, for a Taxable Year, the excess, if any, of the Actual Tax Liability over the Hypothetical Tax Liability. If all or a portion of the actual liability for such Taxes for the Taxable Year arises as a result of an audit by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Detriment unless and until there has been a Determination.

“Reference Asset” means an asset that is held by Partnership, or by any of its direct or indirect Subsidiaries treated as a partnership or disregarded entity (but only if such indirect Subsidiaries are held only through Subsidiaries treated as partnerships or disregarded entities) for purposes of the applicable Tax, at the time of an Exchange. A Reference Asset also includes any asset the Tax basis of which is determined, in whole or in part, for purposes of the applicable Tax, by reference to the Tax basis of an asset that is described in the preceding sentence, including for U.S. federal income Tax purposes, any asset that is “substituted basis property” under Section 7701(a)(42) of the Code with respect to a Reference Asset, or any similar provisions of state, local, or non-U.S. Tax law.

“Schedule” means any of the following: (a) a Basis Schedule, (b) a Tax Benefit Schedule, or (c) the Early Termination Schedule, and, in each case, any amendments thereto.

“Stock Exchange Payment” has the meaning set forth in the Exchange Agreement.

“Subsidiaries” means, with respect to any Person, as of any date of determination, any other Person as to which such first Person owns, directly or indirectly, or otherwise controls (i) more than 50% of the voting power or other similar interests or (ii) the sole general partner interest or managing member or similar interest of such other Person, provided that the Partnership and its Subsidiaries shall not be treated as a Subsidiary of Corporate Taxpayer.

“Subsidiary Stock” means any stock or other equity interest in any Subsidiary of Partnership that is treated as a C corporation for U.S. federal income tax purposes.

“Tax” or “Taxes” means any and all U.S. federal, state, local and non-U.S. taxes, assessments or similar charges that are based on or measured with respect to net income or profits, whether as an exclusive or an alternative basis, and including franchise taxes that are based on or measured with respect to net income or profits, together with any interest, penalties, or additions related to such amounts or imposed in respect thereof under applicable law.

“Tax Return” means any return, filing, declaration, report, questionnaire, information statement, or other document filed or required to be filed with respect to Taxes with any Taxing Authority (including any attached schedules), including any information return, claim for refund, amended return and declaration of estimated Tax (whether or not a payment is required to be made with respect to such filing).

“Taxable Year” means a taxable year of Corporate Taxpayer as defined in Section 441(b) of the Code or comparable section of state, local or non-U.S. Tax law, as applicable, (and, therefore, for the avoidance of doubt, may include a period of less than 12 months for which a Tax Return is made) ending on or after the Closing Date.

“Taxing Authority” shall mean any federal, national, state, county, municipal or other local government, or any subdivision, agency, commission or authority thereof, or any quasi-governmental body, or any other authority of any kind, exercising authority in relation to Tax matters.

“TRA Disinterested Majority” means a majority of the directors of the Board who are disinterested as determined by the Board in accordance with the Companies Act with respect to the matter being considered by the Board; provided that to the extent a matter being considered by the Board is required to be considered by disinterested directors under the rules of the securities exchange on which Acquiror Class A Common Stock are then listed, the Securities Act or the Exchange Act, such rules with respect to the definition of disinterested director shall apply solely with respect to such matter.

“TRA Party Representative” means initially Tolerantia, LLC, and thereafter, that TRA Party or a committee of TRA Parties determined from time to time by a plurality vote of the TRA Parties ratably in accordance with their right to receive Early Termination Payments under this Agreement, determined as if all TRA Parties directly holding New Company Common Units had fully Exchanged their New Company Common Units for Acquiror Class A Common Stock or other consideration and Acquiror had exercised its right of early termination on the date of the most recent Exchange.

“Treasury Regulations” means the final, temporary and proposed regulations under the Code promulgated from time to time (including corresponding provisions and succeeding provisions) as in effect for the relevant taxable period.

“Valuation Assumptions” shall mean, as of an Early Termination Date, the assumptions that in each Taxable Year ending on or after such Early Termination Date,

(a) Corporate Taxpayer will have taxable income sufficient to fully utilize the Tax items arising from the Tax Attributes (other than any items addressed in clause (b)) during such Taxable Year or future Taxable Years (including, for the avoidance of doubt, deductions and other Tax items arising from Tax Attributes that would result from future Tax Benefit Payments that would be paid in accordance with the Valuation Assumptions, further assuming that such applicable future payments would be paid on the due date (including extensions) for filing a Corporate Taxpayer Return for the applicable Taxable Year) in which such deductions would become available,

(b) any loss carryovers generated by deductions arising from any Tax Attributes, which loss carryovers are available in the Taxable Year that includes such Early Termination Date, will be used by the Corporate Taxpayer on a pro rata basis from the Early Termination Date through (A) the scheduled expiration date of such loss carryovers (if any) or (B) if there is no such scheduled expiration date, then the tenth (10<sup>th</sup>) anniversary of the Early Termination Date,

(c) the U.S. federal income Tax rates, and any state, local, or non-U.S. Tax rates, that will be in effect for each such Taxable Year will be those specified for each such Taxable Year by the Code and other applicable law as in effect on the Early Termination Date, except to the extent any change to such Tax rates for such Taxable Year has already been enacted into law as of the Early Termination Date, and SOFR that will be in effect for each such Taxable Year will be the rate in effect on the Early Termination Date,

(d) any non-amortizable, non-depreciable Reference Assets (other than any Subsidiary Stock) will be disposed of on the fifteenth (15<sup>th</sup>) anniversary of an Exchange which gave rise to the applicable Basis Adjustment and any short-term investments will be disposed of twelve (12) months following the Early Termination Date; provided that, in the event of a Change of Control, such non-amortizable, non-depreciable assets shall be deemed disposed of at the time of sale of the relevant asset (if earlier than such fifteenth (15<sup>th</sup>) anniversary),

(e) any Subsidiary Stock will never be disposed of, and

(f) if, at the Early Termination Date, there are New Company Common Units that have not been Exchanged, then each such New Company Common Unit is Exchanged in a fully taxable transaction for the Market Value of Acquiror Class A Common Stock that would be transferred if the Exchange occurred on the Early Termination Date.

Section 1.2 Other Definitions.

<u>Term</u>	<u>Section</u>
Acquiror	Preamble
Agreement	Preamble
Amended Schedule	2.3(b)
Basis Schedule	2.1
BCA	Recitals
Beneficial Ownership	Definition of Beneficial Owner
Business Combination	Recitals
control	Definition of Affiliate
Corporate Taxpayer	Preamble
Direct Exchange	Recitals
Early Termination Effective Date	4.2
Early Termination Notice	4.2
Early Termination Payment	4.3(b)
Early Termination Schedule	4.2
Exchange	Recitals
Exchange Agreement	Recitals
Expert	7.9
Interest Amount	3.1(b)
Liquidity Exceptions	4.1(b)
Material Objection Notice	4.2
Net Tax Benefit	3.1(b)
Non-TRA Portion	2.2(b)
Objection Notice	2.3(a)
Other Tax Receivable Obligations	3.3(c)
Partnership	Recitals
Reconciliation Dispute	7.9
Reconciliation Procedures	2.3(a)
Section 754 Election	Recitals
Senior Obligations	5.1
Tax Attributes	Recitals
Tax Benefit Payment	3.1(b)
Tax Benefit Schedule	2.2(a)
TRA Parties	Preamble
TRA Portion	2.2(b)



**ARTICLE II**  
**DETERMINATION OF CERTAIN REALIZED TAX BENEFIT**

Section 2.1 Basis Adjustment. Within three hundred and thirty five (335) calendar days after the end of the Taxable Year of Corporate Taxpayer that includes the Closing Date and each Taxable Year thereafter while this Agreement (or any amended and/or restated version thereof) remains in effect, Acquiror shall deliver to each TRA Party a schedule (the "Basis Schedule") that shows, in reasonable detail necessary to perform the calculations required by this Agreement, (a) the actual Tax basis and the Non-Stepped Up Tax Basis of the Reference Assets as of the Closing Date and each applicable Exchange Date occurring during such Taxable Year, (b) the Basis Adjustment with respect to the Reference Assets Attributable to such TRA Party as a result of the Exchanges effected in such Taxable Year and prior Taxable Years by such TRA Party, calculated in the aggregate, (c) the period (or periods) over which the Reference Assets are amortizable and/or depreciable and (d) the period (or periods) over which each Basis Adjustment in respect of such TRA Party is amortizable and/or depreciable, in each case, calculated in the aggregate for all TRA Parties and solely with respect to the TRA Party to which such Basis Schedule is delivered. All costs and expenses incurred in connection with the provision and preparation of the Basis Schedules and Tax Benefit Schedules for each TRA Party in compliance with this Agreement, as well as the procedures set forth in Section 2.3(b), if applicable, shall be borne by Partnership. Each Basis Schedule will become final as provided in Section 2.3(a) and may be amended as provided in Section 2.3(b) (subject to the procedures set forth in Section 2.3(b)).

Section 2.2 Tax Benefit Schedule.

(a) Tax Benefit Schedule. Within three hundred and thirty five days (335) calendar days after the end of any Taxable Year in which there is a Realized Tax Benefit or Realized Tax Detriment Attributable to a TRA Party, Acquiror shall provide to such TRA Party a schedule showing, in reasonable detail necessary to perform the calculations required by this Agreement, the calculation of the Tax Benefit Payment, if any, and any Realized Tax Benefit or Realized Tax Detriment, as applicable, Attributable to such TRA Party for such Taxable Year (a "Tax Benefit Schedule"). Each Tax Benefit Schedule will become final as provided in Section 2.3(a) and may be amended as provided in Section 2.3(b) (subject to the procedures set forth in Section 2.3(b)).

(b) Applicable Principles. Subject to Section 3.3(a), the Realized Tax Benefit or Realized Tax Detriment for each Taxable Year is intended to measure the decrease or increase in the Actual Tax Liability for such Taxable Year attributable to the Tax Attributes, determined using a "with and without" methodology, and this Agreement shall be interpreted in accordance with such intention. For the avoidance of doubt, the Actual Tax Liability will take into account the deduction of the portion of the Tax Benefit Payment that must be accounted for as interest under the Code or other applicable law based upon the characterization of Tax Benefit Payments as additional consideration payable by Acquiror for the New Company Common Units acquired in an Exchange. Carryovers or carrybacks of any Tax item attributable to the Tax Attributes shall be considered to be subject to the rules of the Code and the Treasury Regulations or the appropriate provisions of U.S. state and local and non-U.S. Tax law, as applicable, governing the use, limitation and expiration of carryovers or carrybacks of the relevant type. If a carryover or carryback of any Tax item includes a portion that is attributable to any Tax Attribute ("TRA Portion") and another portion that is not ("Non-TRA Portion"), such portions shall be considered

to be used in accordance with the “with and without” methodology so that the amount of any Non-TRA Portion is deemed utilized, to the extent available, prior to the amount of any TRA Portion, to the extent available (with the TRA Portion being applied on a proportionate basis consistent with the provisions of Section 3.3). The parties agree that (i) all Tax Benefit Payments (other than the portion of Tax Benefit Payments treated as Imputed Interest) made to transferors in an Exchange will be treated as subsequent upward purchase price adjustments that have the effect of creating additional Basis Adjustments to Reference Assets for Corporate Taxpayer in the Taxable Year of payment, (ii) as a result, such additional Basis Adjustments described in clause (i) will be incorporated into the calculation for the Taxable Year of the applicable payment and into the calculations for subsequent Taxable Years, as appropriate, and (iii) the Actual Tax Liability shall take into account the deduction of the portion of the Tax Benefit Payment that must be accounted for as Imputed Interest under applicable law.

(c) Administrative Assumptions. For the avoidance of doubt, Acquiror shall be entitled to make reasonable simplifying assumptions in making determinations contemplated by this Agreement, including reasonable assumptions regarding basis recovery periods based on available balance sheet information. Notwithstanding anything to the contrary, to the extent Acquiror reasonably determines (in consultation with its accounting and Tax advisors and the TRA Party Representative) that the administrative burden and costs associated with calculating the Tax Attributes with respect to any subsidiary of Partnership would materially outweigh the Tax Benefit Payment attributable to such Tax Attributes, Acquiror shall be permitted to determine that such Tax Attributes shall not be treated as Tax Attributes for all purposes of this Agreement.

### Section 2.3 Procedures, Amendments.

(a) Procedure. Every time Acquiror delivers to a TRA Party an applicable Schedule under this Agreement, including any Amended Schedule delivered pursuant to Section 2.3(b), and any Early Termination Schedule or amended Early Termination Schedule, Acquiror shall also (x) deliver to such TRA Party supporting schedules, valuation reports, if any, and work papers, as determined by Acquiror or reasonably requested by such TRA Party, providing reasonable detail regarding data and calculations that were relevant for the preparation of the Schedule and (y) allow the TRA Party Representative and its advisors reasonable access to the appropriate representatives at the Acquiror or its advisors, as determined by Acquiror, in connection with the review of such Schedule. Without limiting the generality of the preceding sentence, Acquiror shall ensure that each Tax Benefit Schedule or Early Termination Schedule delivered to a TRA Party, together with any supporting schedules and work papers, provides a reasonably detailed presentation of the calculation of the Actual Tax Liability (the “with” calculation), the Hypothetical Tax Liability (the “without” calculation), and identifies any material assumptions or operating procedures or principles that were used for purposes of such calculations. An applicable Schedule or amendment thereto shall become final and binding on all parties thirty (30) calendar days from the date on which all relevant TRA Parties are treated as having received the applicable Schedule or amendment thereto under Section 7.1 unless the TRA Party Representative (i) within thirty (30) calendar days from such date provides Acquiror with written notice of a material objection (made in good faith) to such Schedule or amendment (“Objection Notice”) or (ii) provides a written waiver of such right to provide any Objection Notice within the

period described in clause (i) above, in which case such Schedule or amendment thereto shall become binding on the date such waiver is received by Acquiror. Acquiror and the TRA Party Representative shall negotiate in good faith to resolve the issues raised in an Objection Notice; if Acquiror and the TRA Party Representative are unable to successfully resolve such issues within thirty (30) calendar days after receipt by Acquiror of such Objection Notice, Acquiror and the TRA Party Representative shall employ the reconciliation procedures described in Section 7.9 of this Agreement (the “Reconciliation Procedures”). The TRA Party Representative will represent the interests of each of the TRA Parties and shall raise and pursue, in accordance with this Section 2.3(a), any objection to a Schedule or amendment thereto timely given in writing to the TRA Party Representative by a TRA Party.

(b) Amended Schedule. The applicable Schedule for any Taxable Year may be amended from time to time by Acquiror (i) in connection with a Determination affecting such Schedule, (ii) to correct material inaccuracies in the Schedule, including those identified as a result of the receipt of additional factual information relating to a Taxable Year after the date the Schedule was provided to a TRA Party, (iii) to comply with the Expert’s determination under the Reconciliation Procedures, (iv) to reflect a change in the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year attributable to a carryback or carryforward of a loss or other Tax item to such Taxable Year, (v) to reflect a change in the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year attributable to an amended Tax Return filed for such Taxable Year, or (vi) to adjust an applicable Basis Schedule to take into account payments made pursuant to this Agreement (any such Schedule, an “Amended Schedule”). Acquiror shall provide an Amended Schedule to each TRA Party within thirty (30) calendar days of the occurrence of an event referenced in clauses (i) through (vi) of the preceding sentence. In the event a Schedule is amended after such Schedule becomes final pursuant to Section 2.3(a) or, if applicable, Section 7.9, (A) the Amended Schedule shall not be taken into account in calculating any Tax Benefit Payment in the Taxable Year to which the amendment relates but instead shall be taken into account in calculating the Cumulative Net Realized Tax Benefit for the Taxable Year in which the amendment actually occurs, and (B) as a result of the foregoing, any increase of the Net Tax Benefit attributable to such Amended Schedule shall not accrue any other interest hereunder until after the due date (without extensions) for filing the Tax return of the Corporate Taxpayer for the Taxable Year in which the amendment actually occurs.

#### Section 2.4 Tax Classifications; Elections.

(a) Basis Adjustments. The parties to this Agreement acknowledge and agree to treat (A) to the fullest extent permitted by law each Direct Exchange as giving rise to Basis Adjustments and (B) to the fullest extent permitted by law each other Exchange using cash or Acquiror Class A Common Stock contributed to Partnership by Acquiror as a direct purchase of New Company Common Units by Acquiror from the applicable TRA Party pursuant to Section 707(a)(2)(B) of the Code and as giving rise to Basis Adjustments, or similar provisions under applicable non-U.S. Tax law.

(b) Section 754 Election. For the Taxable Year that includes the date hereof and for each Taxable Year in which an Exchange occurs and with respect to which Acquiror has obligations under this Agreement, ProKidney Corp. GP Limited, in its capacity as the sole managing member of Partnership, shall cause (i) Partnership and (ii) each of Partnership's direct and indirect Subsidiaries (but only if such indirect Subsidiaries are held only through subsidiaries treated as partnerships or disregarded entities) that is treated as a partnership for U.S. federal income Tax purposes, in each case, to have in effect an election under Section 754 of the Code (and under any similar provisions of applicable state or local or non-U.S. Tax law) for each such Taxable Year to the extent eligible to make such election.

### **ARTICLE III** **TAX BENEFIT PAYMENTS**

#### Section 3.1 Payments.

(a) Payments. Within five (5) Business Days after a Tax Benefit Schedule delivered to a TRA Party becomes final in accordance with Section 2.3(a), or, if applicable, Section 7.9, Acquiror shall pay such TRA Party for such Taxable Year the Tax Benefit Payment determined pursuant to Section 3.1(b) that is Attributable to such TRA Party. Each such Tax Benefit Payment shall be made by wire transfer of immediately available funds to the bank account previously designated by such TRA Party to Acquiror or as otherwise agreed by Acquiror and such TRA Party. The payments provided for pursuant to the above sentence shall be computed separately for each TRA Party. For the avoidance of doubt, no Tax Benefit Payment shall be made in respect of estimated Tax payments, including, without limitation, federal estimated income Tax payments. Notwithstanding anything to the contrary in this Agreement, with respect to each Exchange by or with respect to any TRA Party, if such TRA Party notifies Acquiror in writing of a stated maximum selling price (within the meaning of Treasury Regulations Section 15A.453-1(c)(2)), then the aggregate Tax Benefit Payments to such TRA Party in respect of such Exchange (other than amounts accounted for as interest under the Code) shall not exceed such stated maximum selling price.

(b) A "Tax Benefit Payment" in respect of a TRA Party for a Taxable Year means an amount, not less than zero, equal to the sum of the portion of the Net Tax Benefit that is Attributable to such TRA Party and the Interest Amount with respect thereto. For the avoidance of doubt, for Tax purposes, the Interest Amount shall not be treated as interest (to the extent permitted by applicable law and other than amounts accounted for as Imputed Interest) but instead shall be treated as additional consideration for the acquisition of New Company Common Units in the applicable Exchange, unless otherwise required by law. Subject to Section 3.3(a), the "Net Tax Benefit" for a Taxable Year shall be an amount equal to the excess, if any, of (i) eighty-five percent (85%) of the Cumulative Net Realized Tax Benefit as of the end of such Taxable Year, over (ii) the total amount of payments previously made under the first sentence of Section 3.1(a) (excluding payments attributable to Interest Amounts); provided that, without limiting Acquiror's ability to make offsets against Tax Benefit Payments to the extent permitted by Section 3.4, if there is no such excess (or a deficit exists) no TRA Party shall be required to make a payment (or return a payment) to Acquiror in respect of any portion of any Tax Benefit Payment previously paid by Acquiror to such TRA Party. The "Interest Amount" shall equal the interest on the Net Tax Benefit calculated at the Agreed Rate from the due date (without extensions) for filing the applicable Corporate Taxpayer Return with respect to Taxes for such Taxable Year until the payment date under Section 3.1(a); provided that such interest shall not accrue on the amount of any Net Tax

Benefit after the date on which such amount is actually paid to the applicable TRA Party, regardless of whether such payment is made prior to the due date for such payment under Section 3.1(a). The Net Tax Benefit and the Interest Amount shall be determined separately with respect to each Exchange, on a New Company Common Unit by New Company Common Unit basis by reference to the resulting Basis Adjustment to Corporate Taxpayer.

Section 3.2 No Duplicative Payments. No duplicative payment of any amount (including interest) will be required under this Agreement.

Section 3.3 Pro Rata Payments; Coordination of Benefits with Other Tax Receivable Agreements.

(a) Notwithstanding anything in Section 3.1 to the contrary, to the extent that the aggregate Realized Tax Benefit of Corporate Taxpayer with respect to the Tax Attributes is limited in a particular Taxable Year because Corporate Taxpayer does not have sufficient taxable income, the Net Tax Benefit for Corporate Taxpayer shall be allocated among all TRA Parties eligible for Tax Benefit Payments under this Agreement in proportion to the respective amounts of Net Tax Benefit that would have been allocated to each such TRA Party if Corporate Taxpayer had sufficient taxable income so that there were no such limitation.

(b) If for any reason (including as contemplated by Section 3.3(a)) Acquiror does not fully satisfy its payment obligations to make all Tax Benefit Payments due under this Agreement in respect of a particular Taxable Year, then Acquiror and the TRA Parties agree that (i) Tax Benefit Payments for such Taxable Year shall be allocated to all parties eligible for Tax Benefit Payments under this Agreement in proportion to the relative amounts of Tax Benefit Payments that would have been allocable to each TRA Party if Acquiror had sufficient cash available to make such Tax Benefit Payments and (ii) no Tax Benefit Payment shall be made in respect of any subsequent Taxable Year until all Tax Benefit Payments in respect of prior Taxable Years have been made in full.

(c) Any Tax Benefit Payment or Early Termination Payment required to be made by Acquiror to the TRA Parties under this Agreement shall rank senior in right of payment to any principal, interest or other amounts due and payable in respect of any similar agreement ("Other Tax Receivable Obligations"). The effect of any other similar agreement shall not be taken into account in respect of any calculations made hereunder.

Section 3.4 Overpayments. To the extent Acquiror makes a payment to a TRA Party in respect of a particular Taxable Year under Section 3.1(a) in an amount in excess of the amount of such payment that should have been made to such TRA Party in respect of such Taxable Year (taking into account Section 3.3) under the terms of this Agreement, then such TRA Party shall not receive further payments under Section 3.1(a) until such TRA Party has foregone an amount of payments equal to such excess. For clarity, the operation of this Section 3.4 with respect to any particular TRA Party shall not affect the rights or obligations of any other TRA Party under this Agreement.

**ARTICLE IV**  
**TERMINATION**

Section 4.1 Early Termination and Breach of Agreement.

(a) Acquiror may, with the prior written consent of the TRA Disinterested Majority, terminate this Agreement with respect to all amounts payable to the TRA Parties and with respect to all of the New Company Common Units held by the TRA Parties at any time by paying to each TRA Party the Early Termination Payment in respect of such TRA Party; provided, however, that this Agreement shall only terminate upon the receipt of the entire Early Termination Payment by all TRA Parties and payments described in the next sentence, if any, and provided, further, that Acquiror may withdraw any notice to execute its termination rights under this Section 4.1(a) prior to the time at which any Early Termination Payment has been paid. Upon payment of the entire Early Termination Payment by Acquiror to all of the TRA Parties, none of the TRA Parties or Acquiror shall have any further payment rights or obligations under this Agreement, other than for any (i) Tax Benefit Payment due and payable that remains unpaid as of the Early Termination Date and (ii) any Tax Benefit Payment due for the Taxable Year ending immediately prior to, ending with or including the date of the Early Termination Notice (except to the extent that the amounts described in clause (i) and this clause (ii) are included in the Early Termination Payment). If an Exchange occurs after Acquiror makes all of the required Early Termination Payments, Acquiror shall have no obligations under this Agreement with respect to such Exchange.

(b) In the event that Acquiror (1) materially breaches any of its material obligations under this Agreement, whether as a result of failure to make any payment when due, failure to honor any other material obligation required hereunder or by operation of law as a result of the rejection of this Agreement in a case commenced under the Bankruptcy Code (or other similar law), all obligations hereunder shall be accelerated and such obligations shall be calculated as if an Early Termination Notice had been delivered on the date of such breach and shall include, but not be limited to, (i) the Early Termination Payments calculated as if an Early Termination Notice had been delivered on the date of such breach, (ii) any Tax Benefit Payment in respect of a TRA Party agreed to by Acquiror and such TRA Party as due and payable but unpaid as of the date of such breach, and (iii) any Tax Benefit Payment in respect of any TRA Party due for the Taxable Year ending immediately prior to, with or including the date of such breach (except to the extent included in clause (i) or clause (ii)); provided, that procedures similar to the procedures of Section 4.3(b) shall apply with respect to the determination of the amount payable by Acquiror pursuant to this sentence. Notwithstanding the foregoing, in the event that Acquiror breaches a material obligation under this Agreement (and, in the case of a breach of a material obligation other than an obligation to make a payment, does not cure such breach reasonably promptly upon notice thereof), each TRA Party shall be entitled to elect to receive the amounts set forth in clauses (i), (ii) and (iii) above or to seek specific performance of the terms hereof. The parties agree that the failure to make any payment due pursuant to this Agreement within three (3) months of the date such payment is due shall be deemed to be a breach of a material obligation under this Agreement for all purposes of this Agreement, and that it will not be considered to be a breach of a material obligation under this Agreement to make a payment due pursuant to this Agreement within three (3) months of the date such payment is due. Notwithstanding anything in this

Agreement to the contrary, it shall not be a breach of this Agreement if Acquiror fails to make any Tax Benefit Payment when due to the extent that Acquiror (x) has insufficient funds, or cannot make such payment as a result of obligations imposed in connection with any Senior Obligations, and cannot take commercially reasonable actions to obtain sufficient funds, to make such payment or (y) would become insolvent as a result of making such payment (in each case, as determined by the Board in good faith) (clause (x) and this clause (y) together, the “Liquidity Exceptions”); provided that the interest provisions of Section 5.2 shall apply to such late payment and any such payment obligation shall nonetheless accrue for the benefit of the TRA Parties and Acquiror shall make such payment at the first opportunity that the Liquidity Exceptions do not apply, and provided, further, that if the Liquidity Exceptions apply and Acquiror declares or pays any dividend of cash to its shareholders while any Tax Benefit Payment is due and payable and remains unpaid, then the Liquidity Exceptions shall no longer apply. In the case of a breach of a material obligation other than an obligation to make a payment, Acquiror will not be considered to have breached such obligation for purposes of this Section 4.1(b) until Acquiror shall have been provided a reasonable opportunity to cure such breach and shall have failed to cure such breach.

(c) In the event of a Change of Control, all obligations hereunder will be accelerated and such obligations shall be calculated as if an Early Termination Notice had been delivered on the date of such Change of Control and shall include, without duplication, (1) the Early Termination Payments calculated with respect to the TRA Parties as if the Early Termination Date is the date of such Change of Control, (2) any Tax Benefit Payment due and payable and that remains unpaid as of the date of such Change of Control, and (3) any Tax Benefit Payment in respect of any TRA Party due for the Taxable Year ending immediately prior to, with or including the date of such Change of Control (except to the extent included in clause (1) or clause (2)). In the event of a Change of Control, (i) the TRA Parties shall be entitled to receive the amounts set forth in clauses (1), (2) and (3) of the preceding sentence, (ii) any Early Termination Payment described in the preceding sentence shall be calculated utilizing the Valuation Assumptions by substituting the phrase “date of a Change of Control” in each place “Early Termination Date” appears and (iii) Section 4.2 and Section 4.3 shall apply, *mutatis mutandis*, with respect to payments to the TRA Parties upon the Change of Control. Upon payment by Acquiror of the full amount prescribed by this Section 4.1(c), pursuant to a Change of Control, Acquiror shall have no further payment obligations under this Agreement.

Section 4.2 Early Termination Notice. If Acquiror chooses to exercise its right of early termination in accordance with Section 4.1(a) above, Acquiror shall deliver to each TRA Party a notice (the “Early Termination Notice”) and a schedule (the “Early Termination Schedule”) specifying Acquiror’s intention to exercise such right and showing in reasonable detail the calculation of the Early Termination Payment(s) due for each TRA Party. Each Early Termination Schedule shall become final and binding on all parties thirty (30) calendar days from the first date on which all TRA Parties are treated as having received such Schedule or amendment thereto under Section 7.1 unless, prior to such thirtieth (30<sup>th</sup>) calendar day, the TRA Party Representative (a) provides Acquiror with written notice of a material objection to such Schedule made in good faith (“Material Objection Notice”) or (b) provides a written waiver of such right of a Material Objection Notice, in which case such Schedule will become binding on the date the waiver is received by Acquiror. If Acquiror and the TRA Party Representative, for any reason, are unable to successfully

resolve the issues raised in such notice within thirty (30) calendar days after receipt by Acquiror of the Material Objection Notice, Acquiror and the TRA Party Representative shall employ the Reconciliation Procedures in which case such Schedule shall become binding in accordance with Section 7.9. The date on which the Early Termination Schedule becomes binding in accordance with this Section 4.2 shall be the “Early Termination Effective Date”.

#### Section 4.3 Payment upon Early Termination.

(a) Within three (3) Business Days after the Early Termination Effective Date, Acquiror shall pay to each TRA Party an amount equal to the Early Termination Payment in respect of such TRA Party. Such payment shall be made by wire transfer of immediately available funds to a bank account or accounts designated by each TRA Party or as otherwise agreed by Acquiror and such TRA Party.

(b) “Early Termination Payment” in respect of a TRA Party shall equal the present value, discounted at the Early Termination Rate as of the applicable Early Termination Effective Date, of all Tax Benefit Payments in respect of such TRA Party that would be required to be paid by Acquiror beginning from the Early Termination Date and assuming that (i) the Valuation Assumptions in respect of such TRA Party are applied, (ii) for each Taxable Year, the Tax Benefit Payment is paid on the last day of such Taxable Year and (iii) for purposes of calculating the Early Termination Rate, SOFR shall be SOFR as of the date of the Early Termination Notice. For the avoidance of doubt, an Early Termination Payment shall be made to each applicable TRA Party regardless of whether such TRA Party has exchanged all of its New Company Common Units as of the Early Termination Effective Date.

### **ARTICLE V** **SUBORDINATION AND LATE PAYMENTS**

Section 5.1 Subordination. Notwithstanding any other provision of this Agreement to the contrary, any Tax Benefit Payment or Early Termination Payment required to be made by Acquiror to the TRA Parties under this Agreement shall rank subordinate and junior in right of payment to any principal, interest or other amounts due and payable in respect of any obligations in respect of indebtedness for borrowed money of Acquiror (“Senior Obligations”), shall rank senior in right of payment to any principal, interest or other amounts due and payable in respect of any Other Tax Receivable Obligation, and shall rank *pari passu* with all current or future unsecured obligations of Acquiror that are not Senior Obligations or Other Tax Receivable Obligations. To the extent that any payment under this Agreement is not permitted to be made at the time payment is due as a result of this Section 5.1 and the terms of agreements governing Senior Obligations, such payment obligation nevertheless shall accrue for the benefit of TRA Parties and Acquiror shall make such payments at the first opportunity that such payments are permitted to be made in accordance with the terms of the Senior Obligations and Section 5.2 shall apply to such payment. To the extent Acquiror or its Subsidiaries (including Partnership and its Subsidiaries) incur, create or assume any Senior Obligations after the date hereof, Acquiror shall, and shall cause its Subsidiaries to, use commercially reasonable efforts to ensure that such indebtedness permits the amounts payable hereunder to be paid.



Section 5.2 Late Payments by Acquiror. The amount of all or any portion of any Tax Benefit Payment or Early Termination Payment not made to the TRA Parties when due under the terms of this Agreement, whether as a result of Section 5.1 or otherwise, shall be payable together with any interest thereon, computed at the Default Rate and commencing from the date on which such Tax Benefit Payment or Early Termination Payment was due and payable.

**ARTICLE VI**  
**NO DISPUTES; CONSISTENCY; COOPERATION**

Section 6.1 Participation in Acquiror's and Partnership's Tax Matters. Except as otherwise provided in this Agreement, the BCA or the Partnership LPA, Acquiror shall have full responsibility for, and sole discretion over, all Tax matters concerning Corporate Taxpayer and Partnership, including the preparation, filing or amending of any Tax Return and defending, contesting or settling any issue pertaining to Taxes. Notwithstanding the foregoing, Acquiror (i) shall notify the TRA Party Representative in writing of the commencement of, and keep the TRA Party Representative reasonably informed with respect to, the portion of any audit of Corporate Taxpayer and Partnership or any of Partnership's Subsidiaries by a Taxing Authority the outcome of which is reasonably expected to adversely affect the rights and obligations of a TRA Party under this Agreement, and (ii) shall provide to the TRA Party Representative reasonable opportunity to participate in or provide information and other input to Acquiror, Partnership and their respective advisors concerning the conduct of any portion of such audit the outcome of which is reasonably expected to significantly and adversely affect the rights and obligations of a TRA Party under this Agreement; provided, however, that Acquiror and Partnership shall not be required to take any action that is inconsistent with any provision of the Partnership LPA.

Section 6.2 Consistency. Acquiror and the TRA Parties agree to report and cause their respective Affiliates to report for all purposes, including U.S. federal, state, local and non-U.S. Tax purposes and financial reporting purposes, all Tax-related items (including the Basis Adjustments and each Tax Benefit Payment) in a manner consistent with that set forth in this Agreement or specified by Acquiror in any Schedule (or Amended Schedule, as applicable) required to be provided by or on behalf of Acquiror under this Agreement that is final and binding on the parties unless otherwise required by law. Acquiror shall (and shall cause Partnership and its other Subsidiaries to) use commercially reasonable efforts (for the avoidance of doubt, taking into account the interests and entitlements of all TRA Parties under this Agreement) to defend the Tax treatment contemplated by this Agreement and any Schedule (or Amended Schedule, as applicable) in any audit, contest or similar proceeding with any Taxing Authority.

Section 6.3 Cooperation. Each of the TRA Parties shall (a) furnish to Acquiror in a timely manner such information, documents and other materials as Acquiror may reasonably request for purposes of making any determination or computation necessary or appropriate under this Agreement, preparing any Tax Return or contesting or defending any audit, examination or controversy with any Taxing Authority, (b) make itself and its representatives available to Acquiror to provide explanations of documents and materials and such other information as Acquiror or its representatives may reasonably request in connection with any of the matters described in clause (a) above, and (c) reasonably cooperate in connection with any such matter, and Partnership shall reimburse each such TRA Party for any reasonable third-party costs and expenses incurred pursuant to this Section.

**ARTICLE VII**  
**MISCELLANEOUS**

Section 7.1 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be deemed duly given and received (a) on the date of delivery if delivered personally, or by facsimile or email with confirmation of transmission by the transmitting equipment or (b) on the first Business Day following the date of dispatch if delivered by a recognized next-day courier service. All notices hereunder shall be delivered as set forth below, or pursuant to such other instructions as may be designated in writing by the party to receive such notice:

If to Acquiror, to:

ProKidney Corp. GP Limited  
70 Sir John Rogerson's Quay  
Dublin 2, Ireland  
Attention: Tim Bertram  
Email: Tim.Bertram@prokidney.com

with copies to (which shall not constitute notice):

Davis Polk & Wardwell LLP  
450 Lexington Avenue  
New York, New York 10017  
Attention: Lee Hochbaum  
Richard Truesdell  
Email: lee.hochbaum@davispolk.com  
richard.truesdell@davispolk.com

Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
New York, New York 10036  
Attention: Stuart Leblang  
Jonathan Pavlich  
Email: sleblang@akingump.com  
jpavlich@akingump.com

If to the TRA Parties, to the address and other contact information set forth in the records of Partnership from time to time.

Any party may change its address, fax number or email by giving the other party written notice of its new address, fax number or email in the manner set forth above.

Section 7.2 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart. Delivery of an executed signature page to this Agreement by e-mail transmission shall be as effective as delivery of a manually signed counterpart of this Agreement. The parties hereby agree that this Agreement may be executed by way of electronic signatures and that the electronic signature has the same binding effect as a physical signature. For the avoidance of doubt, the Parties agree that this Agreement, or any part thereof, shall not be denied legal effect, validity or enforceability solely on the ground that it is in the form of an electronic record.

Section 7.3 Entire Agreement; Third Party Beneficiaries. This Agreement (together with all Exhibits and Schedules to this Agreement), the BCA, the Partnership LPA, and the Confidentiality Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 7.4 Governing Law. This Agreement shall be governed by, and construed in accordance with, the law of the State of Delaware, without regard to the conflicts of laws principles thereof that would mandate the application of the laws of another jurisdiction.

Section 7.5 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

Section 7.6 Successors; Assignment; Amendments; Waivers.

(a) Each TRA Party may assign any of its rights under this Agreement to any Person as long as such transferee has executed and delivered, or, in connection with such transfer, executes and delivers, a joinder to this Agreement, in form and substance reasonably satisfactory to Acquiror (the "Joinder Requirement"), agreeing to become a TRA Party for all purposes of this Agreement; provided, however, that to the extent any TRA Party sells, exchanges, distributes, or otherwise transfers New Company Common Units to any Person (other than Acquiror or the Partnership) in accordance with the terms of the Exchange Agreement and/or Partnership LPA, such TRA Party shall have the option to assign to the transferee of such New Company Common Units its rights under this Agreement with respect to such transferred New Company Common Units as long as such transferee has executed and delivered, or, in connection with such transfer,

executes and delivers, a joinder to this Agreement, in form and substance reasonably satisfactory to Acquiror. For the avoidance of doubt, if a TRA Party transfers New Company Common Units in accordance with the terms of the Exchange Agreement and/or Partnership LPA but does not assign to the transferee of such New Company Common Units its rights under this Agreement with respect to such transferred New Company Common Units, such TRA Party shall continue to be entitled to receive the Tax Benefit Payments arising in respect of a subsequent Exchange of such New Company Common Units and such transferee may not enforce the provisions of this Agreement. Notwithstanding any other provision of this Agreement, an assignee of only rights to receive a Tax Benefit Payment in connection with an Exchange has no rights under this Agreement other than to enforce its right to receive a Tax Benefit Payment pursuant to this Agreement. Acquiror may not assign any of its rights or obligations under this Agreement to any Person (other than in connection with a Mandatory Assignment) without the prior written consent of the TRA Party Representative, which consent shall not to be unreasonably withheld, conditioned or delayed. Any purported assignment in violation of the terms of this Section 7.6(a) shall be null and void.

(b) No provision of this Agreement may be amended unless such amendment is approved in writing by Acquiror (as determined by the TRA Disinterested Majority) and by the TRA Party Representative and no provision of this Agreement may be waived unless such waiver is in writing and signed by the party against whom the waiver is to be effective (or, in the case of a waiver by all TRA Parties, signed by the TRA Party Representative; provided that no such amendment or waiver shall be effective if such amendment or waiver will have a disproportionate and adverse effect on the payments certain TRA Parties will or may receive under this Agreement unless such amendment or waiver is consented in writing by the TRA Parties disproportionately and adversely affected who would be entitled to receive at least majority of the total amount of the Early Termination Payments payable to all TRA Parties disproportionately and adversely affected hereunder if Acquiror had exercised its right of early termination on the date of the most recent Exchange prior to such amendment or waiver (excluding, for purposes of this sentence, all payments made to any TRA Party pursuant to this Agreement since the date of such most recent Exchange)).

(c) All of the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of and shall be enforceable by the parties hereto and their respective successors, permitted assigns, heirs, executors, administrators and legal representatives. Acquiror shall require and cause any direct or indirect successor (whether by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of Acquiror, by written agreement, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that Acquiror would be required to perform if no such succession had taken place (any such assignment, a "Mandatory Assignment").

Section 7.7 Titles and Subtitles. The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

Section 7.8 Waiver of Jury Trial, Jurisdiction.

(a) EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT HEREBY IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY, UNCONDITIONALLY AND VOLUNTARILY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY.

(b) Subject to Section 7.9, any proceeding or action based upon, arising out of or related to this Agreement must be brought in the Court of Chancery of the State of Delaware (or, only to the extent such court does not have subject matter jurisdiction, the Superior Court of the State of Delaware or, if it has or can acquire jurisdiction, in the United States District Court for the District of Delaware), and each of the parties irrevocably and unconditionally (i) consents and submits to the exclusive jurisdiction of each such court in any such proceeding or action, (ii) waives any objection it may now or hereafter have to personal jurisdiction, venue or to convenience of forum, (iii) agrees that all claims in respect of such proceeding or Action shall be heard and determined only in any such court and (iv) agrees not to bring any proceeding or action arising out of or relating to this Agreement or the transactions contemplated hereby in any other court. Nothing herein contained shall be deemed to affect the right of any party to serve process in any manner permitted by Law or to commence legal proceedings or otherwise proceed against any other party in any other jurisdiction, in each case, to enforce judgments obtained in any proceeding or action brought in accordance with this Section 7.8(b).

Section 7.9 Reconciliation. In the event that Acquiror and the TRA Party Representative are unable to resolve a disagreement with respect to the matters governed by Section 2.3 and 4.2 within the relevant period designated in this Agreement (“Reconciliation Dispute”), the Reconciliation Dispute shall be submitted for determination to a nationally recognized expert (the “Expert”) in the particular area of disagreement mutually acceptable to both parties. The Expert shall be a partner or principal in a nationally recognized accounting or law firm, and unless Acquiror and the TRA Party Representative agree in writing otherwise, the Expert shall not, and the firm that employs the Expert shall not, have any material relationship with Acquiror or the TRA Party Representative or other actual or potential conflict of interest. If Acquiror and the TRA Party Representative are unable to agree on an Expert within fifteen (15) calendar days of the commencement of a Reconciliation Dispute, the Expert shall be appointed by the International Chamber of Commerce Centre for Expertise. The Expert shall resolve any matter relating to the Basis Schedule or an amendment thereto or the Early Termination Schedule or an amendment thereto within thirty (30) calendar days and shall resolve any matter relating to a Tax Benefit Schedule or an amendment thereto within fifteen (15) calendar days or as soon thereafter as is reasonably practicable, in each case after the matter has been submitted to the Expert for resolution. Notwithstanding the preceding sentence, if the matter is not resolved before any payment that is the subject of a disagreement would be due (in the absence of such disagreement) or any Tax Return reflecting the subject of a disagreement is due, the undisputed amount shall be paid on the date prescribed by this Agreement and such Tax Return may be filed as prepared by Acquiror, subject to adjustment or amendment upon resolution. The costs and expenses relating

to the engagement of such Expert or amending any Tax Return shall be borne by Partnership except as provided in the next sentence. Acquiror and the TRA Party Representative shall bear their own costs and expenses of such proceeding, unless (i) the Expert adopts the TRA Party Representative's position, in which case Acquiror shall reimburse the TRA Party Representative for any reasonable out-of-pocket costs and expenses in such proceeding, or (ii) the Expert adopts Acquiror's position, in which case the TRA Party Representative shall reimburse Acquiror for any reasonable out-of-pocket costs and expenses in such proceeding. Any dispute as to whether a dispute is a Reconciliation Dispute within the meaning of this Section 7.9 shall be decided by the Expert. The Expert shall finally determine any Reconciliation Dispute and the determinations of the Expert pursuant to this Section 7.9, absent manifest error, shall be binding on Acquiror and each of the TRA Parties and may be entered and enforced in any court having jurisdiction.

Section 7.10 Withholding. Acquiror shall be entitled to deduct and withhold from any payment payable pursuant to this Agreement such amounts as Acquiror is required to deduct and withhold with respect to the making of such payment under the Code or any provision of state, local or non-U.S. Tax law; provided, however, that (i) Acquiror shall use commercially reasonable efforts to provide notice to the applicable TRA Party of its intent to deduct and withhold (together with information setting forth the basis for such deduction or withholding) prior to the making of such deductions and withholding payments and (ii) the parties shall reasonably cooperate to minimize or eliminate such deductions or withholding payments to the extent permitted by applicable law, in the case of each of clauses (i) and (ii), other than any deduction or withholding required by reason of such TRA Party's failure to comply with the last sentence of this Section 7.10. To the extent that amounts are so withheld and timely paid over to the appropriate Taxing Authority by Acquiror, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of whom such withholding was made. Each TRA Party shall promptly provide Acquiror with any applicable Tax forms and certifications (including IRS Form W-9 or the applicable version of IRS Form W-8) reasonably requested by Acquiror in connection with determining whether any such deductions and withholdings are required under the Code or any provision of state, local or non-U.S. Tax law.

Section 7.11 Consolidated Group Status; Transfers of Corporate Assets.

(a) To the extent Corporate Taxpayer consists or becomes a member of an affiliated, consolidated, combined or unitary group of corporations that files a consolidated, combined or unitary income Tax Return pursuant to Sections 1501 et seq. of the Code or any corresponding provisions of state, local or non-U.S. Tax law, then: (i) the provisions of this Agreement shall be applied with respect to the group as a whole; and (ii) Tax Benefit Payments, Early Termination Payments and other applicable items hereunder shall be computed with reference to the consolidated, combined or unitary taxable income of the group as a whole.

(b) If any Person the income of which is included in the income of Corporate Taxpayer transfers one or more Reference Assets to an entity the income of which will not be included in the income of Corporate Taxpayer for applicable Tax purposes, such Person, for purposes of calculating the amount of any Tax Benefit Payment or Early Termination Payment due hereunder, shall be treated as having disposed of such asset in a fully taxable transaction on the date of such transfer. The consideration deemed to be received in a transaction contemplated

in the prior sentence shall be equal to the fair market value of the deemed transferred asset (as determined by an independent expert mutually agreed upon by Corporate Taxpayer and the TRA Party Representative, unless such condition is waived by the TRA Party Representative) on a gross basis, i.e., disregarding (i) the amount of debt to which such asset is subject, in the case of a transfer of an encumbered asset or (ii) the amount of debt allocated to such asset, in the case of a transfer of a partnership interest. The transactions described in this Section 7.11(b) shall be taken into account in determining the Realized Tax Benefit or Realized Tax Detriment, as applicable, for such Taxable Year based on the income, gain or loss deemed allocated to Corporate Taxpayer using the Non-Stepped Up Tax Basis of the Reference Assets in calculating its Hypothetical Tax Liability for such Taxable Year and using the actual Tax basis of the Reference Assets in calculating its Actual Tax Liability, determined using the “with and without” methodology. Thus, for example, in determining the Hypothetical Tax Liability of Corporate Taxpayer the taxable income of Corporate Taxpayer shall be determined by treating Partnership as having sold the applicable Reference Asset for its fair market value, recovering any basis applicable to such Reference Asset (using the Non-Stepped Up Tax Basis), while the Actual Tax Liability of Corporate Taxpayer would be determined by recovering the actual Tax basis of the Reference Asset that reflects any Basis Adjustments. For purposes of this Section 7.11(b), a transfer of a partnership interest (including, for the avoidance of doubt, a New Company Common Unit) or an election by any Person the income of which is included in the income of Corporate Taxpayer to be treated as a corporation for U.S. federal income tax purposes (or other applicable provisions of state and local and non-U.S. Tax laws) shall be treated as a transfer of the transferring partner’s share of each of the assets and liabilities of that partnership. Notwithstanding the foregoing, after the occurrence of any such transfer as described in the first sentence of this Section 7.11(b), if the Corporate Taxpayer takes actions to ensure that the amount to be received by the TRA Parties hereunder and the timing thereof, taking into account such actions, would be the same amount and timing as if such transfer described in the first sentence Section 7.11(b) did not occur, then this Section 7.11(b) shall not apply with respect to such transfer.

#### Section 7.12 Confidentiality.

(a) Each TRA Party and each of their respective assignees acknowledges and agrees that the information of Acquiror is confidential and, except in the course of performing any duties as necessary for Acquiror and its Affiliates, as required by law or legal process or to enforce the terms of this Agreement, such person shall keep and retain in confidence in accordance with this Agreement, and not disclose to any Person, any confidential matters acquired pursuant to this Agreement of Acquiror and its Affiliates and successors, concerning Partnership and its Affiliates and successors or the members of Partnership, learned by the TRA Party heretofore or hereafter. This Section 7.12 shall not apply to (i) any information that has been made publicly available by Acquiror or any of its Affiliates, becomes public knowledge or is generally known (except as a result of an act of the TRA Party in violation of this Agreement), (ii) the disclosure of information to the extent necessary for the TRA Party to assert its rights hereunder or defend itself in connection with any action or proceeding arising out of, or relating to, this Agreement, (iii) any information that comes into the possession of, or becomes available to, the TRA Party from a source other than Acquiror, its Affiliates or its or their respective representatives (provided that such source is not known by the TRA Party to be bound by a legal, contractual or fiduciary

confidentiality obligation not to disclose such information) and (iv) the disclosure of information to the extent necessary for the TRA Party to prepare and file its Tax Returns, to respond to any inquiries regarding the same from any Taxing Authority or to prosecute or defend any action, proceeding or audit by any Taxing Authority with respect to such returns. Notwithstanding anything to the contrary herein, each TRA Party and each of their assignees (and each employee, representative or other agent of the TRA Party or its assignees, as applicable) may disclose to any and all Persons the Tax treatment and Tax structure of Acquiror, Partnership and their Affiliates, and any of their transactions, and all materials of any kind (including opinions or other Tax analyses) that are provided to the TRA Party relating to such Tax treatment and Tax structure.

(b) If a TRA Party or an assignee commits a breach, or threatens to commit a breach, of any of the provisions of this Section 7.12, Acquiror shall have the right and remedy to have the provisions of this Section 7.12 specifically enforced by injunctive relief or otherwise by any court of competent jurisdiction without the need to post any bond or other security, it being acknowledged and agreed that any such breach or threatened breach will cause irreparable injury to the Acquiror or any of its Affiliates and that money damages alone will not provide an adequate remedy. Such rights and remedies shall be in addition to, and not in lieu of, any other rights and remedies available at law or in equity.

Section 7.13 Change in Law. Notwithstanding anything herein to the contrary, if, in connection with an actual or proposed change in law, a TRA Party reasonably believes that the existence of this Agreement could cause income (other than income arising from receipt of a payment under this Agreement) recognized by the TRA Party upon any Exchange by such TRA Party to be treated as ordinary income rather than capital gain (or otherwise taxed at ordinary income rates) for U.S. federal income Tax purposes, or would have other material adverse Tax consequences to such TRA Party, then at the written election of such TRA Party and to the extent specified by such TRA Party, this Agreement (i) shall cease to have further effect with respect to such TRA Party, (ii) shall not apply to an Exchange by such TRA Party occurring after a date specified by such TRA Party, or (iii) shall otherwise be amended in a manner determined by such TRA Party; provided that any such amendment pursuant to clause (iii) shall not result in an increase in payments under this Agreement at any time as compared to the amounts and times of payments that would have been due in the absence of such amendment.

Section 7.14 Independent Nature of TRA Parties' Rights and Obligations. The obligations of each TRA Party hereunder are several and not joint with the obligations of any other TRA Party, and no TRA Party shall be responsible in any way for the performance of the obligations of any other TRA Party hereunder. The decision of each TRA Party to enter into this Agreement has been made by such TRA Party independently of any other TRA Party. Nothing contained herein, and no action taken by any TRA Party pursuant hereto, shall be deemed to constitute the TRA Parties as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the TRA Parties are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated hereby and Acquiror acknowledges that the TRA Parties are not acting in concert or as a group, and Acquiror will not assert any such claim, with respect to such obligations or the transactions contemplated hereby.



Section 7.15 TRA Party Representative.

(a) Without further action of any of Acquiror, the TRA Party Representative or any TRA Party, and as partial consideration in respect of the benefits conferred by this Agreement, the TRA Party Representative is hereby irrevocably constituted and appointed as the TRA Party Representative, with full power of substitution, to take any and all actions and make any decisions required or permitted to be taken by the TRA Party Representative under this Agreement. The TRA Party Representative agrees that with respect to any material notice, information or other communication it receives from Acquiror in its capacity as a TRA Party Representative, it will promptly share such notice, information or communication with each TRA Party.

(b) If at any time the TRA Party Representative shall incur out of pocket expenses in connection with the exercise of its duties hereunder, upon written notice to Acquiror from the TRA Party Representative of documented costs and expenses (including fees and disbursements of counsel and accountants) incurred by the TRA Party Representative in connection with the performance of its rights or obligations under this Agreement and the taking of any and all actions in connection therewith, Acquiror shall reduce the future payments (if any) due to the TRA Parties hereunder pro rata by the amount of such expenses which it shall instead remit directly to the TRA Party Representative (provided that, for applicable Tax purposes, such amounts will be deemed to be distributed first to the TRA Parties and then paid over to the TRA Party Representative by the TRA Parties). In connection with the performance of its rights and obligations under this Agreement and the taking of any and all actions in connection therewith, the TRA Party Representative shall not be required to expend any of its own funds (though, for the avoidance of doubt but without limiting the provisions of this Section 7.15(b), it may do so at any time and from time to time in its sole discretion).

(c) The TRA Party Representative shall not be liable to any TRA Party for any act of the TRA Party Representative arising out of or in connection with the acceptance or administration of its duties under this Agreement, except to the extent any liability, loss, damage, penalty, fine, cost or expense is actually incurred by such TRA Party as a proximate result of the bad faith or willful misconduct of the TRA Party Representative (it being understood that any act done or omitted pursuant to the advice of legal counsel shall be conclusive evidence of such good faith judgment). The TRA Party Representative shall not be liable for, and shall be indemnified by the TRA Parties (on a several but not joint basis) for, any liability, loss, damage, penalty or fine incurred by the TRA Party Representative (and any cost or expense incurred by the TRA Party Representative in connection therewith and herewith and not previously reimbursed pursuant to subsection (b) above) arising out of or in connection with the acceptance or administration of its duties under this Agreement, and such liability, loss, damage, penalty, fine, cost or expense shall be treated as an expense subject to reimbursement pursuant to the provisions of subsection (b) above, except to the extent that any such liability, loss, damage, penalty, fine, cost or expense is the proximate result of the bad faith or willful misconduct of the TRA Party Representative (it being understood that any act done or omitted pursuant to the advice of legal counsel shall be conclusive evidence of such good faith judgment); provided, however, in no event shall any TRA Party be obligated to indemnify the TRA Party Representative hereunder for any liability, loss, damage, penalty, fine, cost or expense to the extent (and only to the extent) that the aggregate amount of all liabilities, losses, damages, penalties, fines, costs and expenses indemnified by such TRA Party hereunder is or would be in excess of the aggregate payments under this Agreement actually remitted to such TRA Party.

(d) Subject to Section 7.6(b), a decision, act, consent or instruction of the TRA Party Representative shall constitute a decision of all TRA Parties and shall be final, binding and conclusive upon each TRA Party, and Acquiror may rely upon any decision, act, consent or instruction of the TRA Party Representative as being the decision, act, consent or instruction of each TRA Party. Acquiror is hereby relieved from any liability to any person for any acts done by Acquiror in accordance with any such decision, act, consent or instruction of the TRA Party Representative.

Section 7.16 BCA Holder Representative MattersSection 7.17 . Section 7.6(f) of the BCA is hereby incorporated by reference into this Agreement and, without limiting the generality of the foregoing, each Existing Company Unitholder and Closing Company Unitholder (each, as defined in the BCA and without duplication) hereby acknowledges and agrees that amounts otherwise payable to such Existing Company Unitholder or Closing Company Unitholder hereunder may instead be remitted to the Holder Representative (as defined in the BCA) in the circumstances, and at the times and in the amounts, set forth in such section of the BCA.

*[The remainder of this page is intentionally blank]*

IN WITNESS WHEREOF, Acquiror, the TRA Party Representative and each TRA Party have duly executed this Agreement as of the date first written above.

**ACQUIROR**

**PROKIDNEY CORP.**

By: /s/ Timothy A. Bertram

Name: Timothy A. Bertram

Title: Chief Executive Officer and Director

*[Signature Page – Tax Receivable Agreement]*

IN WITNESS WHEREOF, Acquiror, the TRA Party Representative and each TRA Party have duly executed this Agreement as of the date first written above.

**TRA PARTY REPRESENTATIVE:**

**TOLERANTIA, LLC**

By: /s/ Jaime Gomez Sotomayor

Name: Jaime Gomez Sotomayor

Title: Authorized Signatory

*[Signature Page – Tax Receivable Agreement]*

IN WITNESS WHEREOF, Acquiror, the TRA Party Representative and each TRA Party have duly executed this Agreement as of the date first written above.

**TRA PARTIES:**

**TOLERANTIA, LLC**

By: /s/ Jaime Gomez Sotomayor

Name: Jaime Gomez Sotomayor

Title: Authorized Signatory

**CONTROL EMPRESARIAL DE  
CAPITALES, S.A. DE C.V.**

By: /s/ Armando Ibañez Vázquez

Name: Armando Ibañez Vázquez

Title: Attorney-in-fact

**PROKIDNEY MANAGEMENT EQUITY LLC**

By Tolerantia, LLC, its manager

By: /s/ Jaime Gomez Sotomayor

Name: Jaime Gomez Sotomayor

Title: Authorized Signatory

*[Signature Page – Tax Receivable Agreement]*

**EXCHANGE AGREEMENT**

EXCHANGE AGREEMENT (this “*Agreement*”), dated as of July 11, 2022, by and among ProKidney Corp., a Cayman Islands exempted company limited by shares (formerly known as Social Capital Suvretta Holdings Corp. III) (the “*Company*”), ProKidney LP, a limited partnership organized under the laws of Ireland (the “*Partnership*”), acting through its general partner ProKidney Corp. GP Limited, a private company limited by shares organized under the laws of Ireland, and the holders, other than the Company (as defined herein), of Common Units (as defined herein) from time to time party hereto.

WHEREAS, the parties hereto desire to provide for the redemption and/or exchange of Paired Interests (as defined herein), on the terms and subject to the conditions set forth herein and the Partnership LPA (as defined herein).

NOW, THEREFORE, in consideration of the mutual covenants and undertakings contained herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

**ARTICLE I****SECTION 1.1 Definitions**

The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Agreement.

“*Appraiser FMV*” means the fair market value of a Class A Common Share as determined by an independent appraiser mutually agreed upon by the Company and the relevant Exchanging Partner (such agreement not to be unreasonably withheld), whose determination shall be final and binding for those purposes for which Appraiser FMV is used in this Agreement. Appraiser FMV shall be the fair market value determined without regard to any discounts for minority interest, illiquidity or other discounts. The cost of any independent appraisal in connection with the determination of Appraiser FMV in accordance with this Agreement shall be borne by Partnership.

“*Board*” means the Board of Directors of the Company.

“*Business Combination*” has the meaning given to such term in the Partnership LPA.

“*Business Day*” means a day other than a Saturday, Sunday or other day on which commercial banks in George Town, Cayman Islands, Dublin, Ireland and/or New York, New York are authorized or required by Law to close.

“*Cash Exchange Class A 5-Day VWAP*” means the arithmetic average of the VWAP for each of the five (5) consecutive Trading Days ending on the Trading Day immediately prior to the Exchange Notice Date (in the case of an Unrestricted Exchange) or the Exchange Date (in the case of any other Exchange).

“*Cash Exchange Notice*” has the meaning set forth in Section 2.1(c).

“**Cash Exchange Payment**” means, with respect to the portion of any Exchange for which a Cash Exchange Notice is delivered by the Company and the Company has elected to make a Cash Exchange Payment in accordance with Section 2.1(c):

(a) if the Class A Common Shares trade on a National Securities Exchange or automated or electronic quotation system, an amount of cash equal to the product of: (x) the number of Class A Common Shares that would have been received by the Exchanging Partner in the Exchange for that portion of the Paired Interests subject to a Cash Exchange Notice, had such Paired Interests not been subject to a Cash Exchange Notice and the Partnership or the Company, as applicable, had paid the Stock Exchange Payment with respect to such number of Paired Interests, and (y) the Cash Exchange Class A 5-Day VWAP; or

(b) if Class A Common Shares are not then traded on a National Securities Exchange or automated or electronic quotation system, as applicable, an amount of cash equal to the product of (x) the number of Class A Common Shares that would have been received by the Exchanging Partner in the Exchange for that portion of the Paired Interests subject to a Cash Exchange Notice, had such Paired Interests not been subject to a Cash Exchange Notice and the Partnership or the Company, as applicable, had paid the Stock Exchange Payment with respect to such number of Paired Interests, and (y) the Appraiser FMV of one (1) Class A Common Share that would be obtained in an arms-length transaction between an informed and willing buyer and an informed and willing seller, neither of whom is under any compulsion to buy or sell, respectively, and without regard to the particular circumstances of the buyer or seller.

“**Certificate Delivery**” means, in the case of any Class B Common Shares to be transferred and surrendered by an Exchanging Partner in connection with an Exchange which are represented by a certificate or certificates, the process by which the Exchanging Partner shall also present and surrender such certificate or certificates representing such Class B Common Shares during normal business hours at the principal executive offices of the Company, or if any agent for the registration or transfer of Class B Common Shares is then duly appointed and acting, at the office of such transfer agent, along with any instruments of transfer reasonably required by the Company or such transfer agent, as applicable, duly executed by the Exchanging Partner or the Exchanging Partner’s duly authorized representative.

“**Change of Control**” has the meaning given to such term in the Tax Receivable Agreement; provided, that, for the avoidance of doubt, any event that constitutes both a Pubco Offer and a Change of Control of the Company shall be considered a Pubco Offer for purposes of this Agreement.

“**Class A Common Shares**” means the Class A ordinary shares of the Company, par value \$0.0001 per share.

“**Class B Common Shares**” means the Class B ordinary shares of the Company, par value \$0.0001 per share.

“**Code**” means the U.S. Internal Revenue Code of 1986, as amended.

“**Commission**” means the U.S. Securities and Exchange Commission, including any Governmental Entity succeeding to the functions thereof.

“**Common Units**” means the units of the Partnership designated as a “Common Unit” pursuant to the Partnership LPA.

“**Company**” has the meaning set forth in the Preamble.

“**Conversion Date**” has the meaning set forth in the Partnership LPA.

“**Direct Exchange**” has the meaning set forth in Section 2.6 of this Agreement.

“**Direct Exchange Election Notice**” has the meaning set forth in Section 2.6 of this Agreement.

“**Exchange**” has the meaning set forth in Section 2.1(a) of this Agreement.

“**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended.

“**Exchange Blackout Period**” means (i) any “black out” or similar period under the Company’s policies covering trading in the Company’s securities to which the applicable Exchanging Partner is subject (or will be subject at such time as it owns Class A Common Shares), which period restricts the ability of such Exchanging Partner to immediately resell Class A Common Shares to be issued to such Exchanging Partner in connection with a Stock Exchange Payment and (ii) the period of time commencing on (x) the date of the declaration of a dividend by the Company and ending on the first day following (y) the record date determined by the board of directors of the Company with respect to such dividend declared pursuant to clause (x), which period of time shall be no longer than 10 Business Days; provided that in no event shall an Exchange Blackout Period which respect to clause (ii) of the definition hereof occur more than four (4) times per calendar year.

“**Exchange Date**” means, subject in all cases to the provisions of Section 2.2(a) hereof, in the case of any Unrestricted Exchange, the date that is five (5) Business Days after the date the Exchange Notice is given pursuant to Section 2.1(b), unless the Exchanging Partner submits a written request to extend such date and the Company in its sole discretion agrees in writing to such extension, and in any other case, the Quarterly Exchange Date; provided, that if the Exchange Date for any Exchange with respect to which the Company elects to make a Stock Exchange Payment would otherwise fall within any Exchange Blackout Period, then the Exchange Date shall occur on the next Business Day following the end of such Exchange Blackout Period; provided, further, that in the event the Company is required under the terms of this Agreement, or otherwise elects, to make a Stock Exchange Payment, the Exchange may be conditioned (including as to timing) by the Exchanging Partner on the closing of an underwritten distribution of the Class A Common Shares that may be issued in connection with such proposed Exchange.

“**Exchange Notice**” has the meaning set forth in Section 2.1(b) of this Agreement.



**“Exchange Notice Date”** means, with respect to an Exchange, the date the applicable Exchange Notice is delivered in accordance with Section 2.1(b).

**“Exchange Notice Date Value”** means, in the case of an Exchange (other than an Unrestricted Exchange), the arithmetic average of the VWAP for each of the five (5) consecutive Trading Days ending on the Trading Day immediately prior to the Exchange Notice Date.

**“Exchange Rate”** means, at any time, the number of Class A Common Shares for which a Paired Interest is entitled to be exchanged at such time. On the date of this Agreement, the Exchange Rate shall be 1 for 1, subject to adjustment pursuant to Section 2.4 hereof.

**“Exchanged Units”** means any Common Units to be Exchanged (as part of a Paired Interest) for the Cash Exchange Payment or Stock Exchange Payment, as applicable, on the applicable Exchange Date.

**“Exchanging Partner”** means, with respect to any Exchange, the Partnership Unitholder exchanging Units pursuant to Section 2.1(a) of this Agreement.

**“General Partner”** has the meaning given to such term in the Partnership LPA.

**“Governmental Entity”** means any nation or government, any state, province or other political subdivision thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any court, arbitrator (public or private) or other body or administrative, regulatory or quasi-judicial authority, agency, department, board, commission or instrumentality of any federal, state, local or foreign jurisdiction.

**“HSR Act”** has the meaning given to such term in Section 2.1(b) of this Agreement.

**“Law”** means any statute, act, code, law (including common law), ordinance, rule, regulation, determination, guidance or governmental order, in each case, of any Governmental Entity.

**“Lock-Up Agreement”** means that certain Lock-Up Agreement, dated as of the date hereof, by and among the Company and the other parties thereto, as such agreement may be amended from time to time.

**“National Securities Exchange”** means a securities exchange that has registered with the Commission under Section 6 of the Exchange Act.

**“Paired Interest”** means one Common Unit and one Class B Common Share.

**“Partnership”** has the meaning set forth in the preamble.

**“Partnership LPA”** means the Second Amended and Restated Limited Partnership Agreement of the Partnership, dated on or about the date hereof, as such agreement may be amended from time to time.

“**Partnership Unitholder**” means each partner in the Partnership who is also a holder of one or more Common Units that may from time to time be a party to this Agreement.

“**Permitted Exchange Event**” means any of the following events, which has or is occurring, or is otherwise satisfied, as of the Exchange Date:

(i) the Exchange is part of one or more Exchanges by a Partnership Unitholder and any related persons (within the meaning of Section 267(b) or 707(b)(1) of the Code) that is part of a “**block transfer**” within the meaning of Treasury Regulations Section 1.7704-1(e)(2) (for this purpose, treating the General Partner as a “**general partner**” within the meaning of Treasury Regulations Section 1.7704-1(k)(1)) (a “**Block Transfer**”);

(ii) the Exchange is in connection with a Pubco Offer or Change of Control; provided that any such Exchange pursuant to this clause (ii) shall be effective immediately prior to the consummation of the closing of the Pubco Offer or Change of Control date (and, for the avoidance of doubt, shall not be effective if such Pubco Offer is not consummated or Change of Control does not occur); or

(iii) The Exchange is permitted by the Company, in its sole discretion, in connection with circumstances not otherwise set forth herein, if the General Partner determines, after consultation with its outside legal counsel and tax advisor, that the Partnership would not be treated as a “**publicly traded partnership**” under Section 7704 of the Code (or any successor or similar provision) as a result of or in connection with such Exchange.

“**Permitted Transferee**” has the meaning given to such term in Section 3.1 of this Agreement.

“**Person**” means any individual, estate, corporation, partnership, limited partnership, limited liability company, limited company, joint venture, trust, unincorporated or governmental organization or any agency or political subdivision thereof.

“**Private Placement Safe Harbor**” means the “**private placement**” safe harbor set forth in Treasury Regulations Section 1.7704-1(h).

“**PubCo Board**” has the meaning given to such term in the Partnership LPA.

“**Pubco Offer**” has the meaning set forth in Section 2.7 of this Agreement.

“**Quarterly Exchange Date**” means, either (x) for each fiscal quarter, the first (1st) Business Day occurring after the sixtieth (60th) day after the expiration of the applicable Quarterly Exchange Notice Period or (y) such other date as the Company shall determine in its sole discretion; provided that such date is at least sixty (60) days after the expiration of the Quarterly Exchange Notice Period; provided, further, that the Company shall use commercially reasonable efforts to ensure that at least one Quarterly Exchange Date occurs each fiscal quarter.

“**Quarterly Exchange Date Value**” means the arithmetic average of the VWAP for each of the five (5) consecutive Trading Days ending on the Trading Day immediately prior to the Exchange Date; *provided*, that, if such an Exchange (other than an Unrestricted Exchange) is in connection with a Secondary Offering or other negotiated transaction, the Quarterly Exchange Date Value shall be the per share price of Class A Common Shares in such transaction.

**“Quarterly Exchange Notice Period”** means, for each fiscal quarter, the period commencing on the third (3rd) Business Day after the day on which the Company releases its earnings for the prior fiscal period, beginning with the first such date that falls on or after the waiver or expiration of any contractual lock-up period relating to the shares of the Company that may be applicable to a Partnership Unitholder (or such other date within such quarter as the Company shall determine in its sole discretion) and ending ten (10) Business Days thereafter. Notwithstanding the foregoing, the Company may change the definition of Quarterly Exchange Notice Period with respect to any Quarterly Exchange Notice Period scheduled to occur in a calendar quarter subsequent to the then-current calendar quarter, if (x) the revised definition provides for a Quarterly Exchange Notice Period occurring at least once in each calendar quarter, (y) the first Quarterly Exchange Notice Period pursuant to the revised definition will occur no less than 10 Business Days from the date written notice of such change is sent to each Partnership Unitholder (other than the Company) and (z) the revised definition, together with the revised Quarterly Exchange Date resulting therefrom, do not materially adversely affect the ability of the Partnership Unitholders to exercise their Exchange rights pursuant to this Agreement.

**“Redemption”** has the meaning set forth in Section 2.1(a) of this Agreement.

**“Registration Rights Agreement”** means that certain Registration Rights Agreement, dated as of the date hereof, by and among the Company and the other parties thereto.

**“Restricted Common Unit”** has the meaning set forth in the Partnership LPA.

**“Retraction Notice”** has the meaning set forth in Section 2.1(d) of this Agreement.

**“Secondary Offering”** has the meaning set forth in Section 2.1(e) of this Agreement.

**“Secondary Offering Paired Interests”** has the meaning set forth in Section 2.1(a) of this Agreement.

**“Securities Act”** means the U.S. Securities Act of 1933, as amended.

**“Stock Exchange Payment”** means, with respect to the portion of any Exchange for which a Cash Exchange Notice is not delivered by the Company, on behalf of the Partnership, a number of Class A Common Shares equal to the product of the number of Exchanged Units multiplied by the Exchange Rate.

**“Tax Receivable Agreement”** means that certain Tax Receivable Agreement, dated as of the date hereof, by and among the Company and the other parties thereto.

**“Taxing Authority”** has the meaning set forth in the Tax Receivable Agreement.

“**Tolerantia Consent**” means the consent of Tolerantia, LLC to an Exchange, which consent shall be deemed standing until Tolerantia, LLC provides written notice to the Partnership and the Company that such standing consent is no longer applicable for tax, regulatory or other purposes, after which such consent shall mean the written consent of Tolerantia, LLC provided to the Company and the Partnership in connection with such Exchange.

“**Trading Day**” means a day on which the Trading Market is open for the transaction of business (unless such trading shall have been suspended for the entire day).

“**Trading Market**” means the Nasdaq Stock Market or such other principal United States securities exchange on which Class A Common Shares are listed, quoted or admitted to trading.

“**Unrestricted Exchanges**” means any Exchange that is in connection with a Permitted Exchange Event or that occurs during a period in which the Partnership meets the requirements of the Private Placement Safe Harbor.

“**Vesting Event**” has the meaning set forth in the Partnership Agreement.

“**VWAP**” means the daily per share volume-weighted average price of Class A Common Shares on the Trading Market, as displayed under the heading “Bloomberg VWAP” on the Bloomberg page designated for Class A Common Shares (or its equivalent successor if such page is not available) in respect of the period from the open of trading on such Trading Day until the close of trading on such Trading Day (or if such volume-weighted average price is unavailable, (a) the per share volume-weighted average price of a Class A Common Share on such Trading Day (determined without regard to afterhours trading or any other trading outside the regular trading session or trading hours), or (b) if such determination is not feasible, the market price per Class A Common Share, in either case as determined by a nationally recognized independent investment banking firm retained in good faith for this purpose by the Company).

## ARTICLE II

### SECTION 2.1 Exchange Procedure

(a) From and after the waiver or expiration of any contractual lock-up period (including pursuant to the Lock-Up Agreement) relating to the shares of the Company that may be applicable to a Partnership Unitholder following the date of the consummation of the Business Combination, each Partnership Unitholder (other than the Company) shall, with Tolerantia Consent, be entitled, upon the terms and subject to the conditions hereof, to surrender Paired Interests to the Partnership and the Company, as applicable, in exchange for the delivery by Partnership of the Stock Exchange Payment or, at the election of the Company, the Cash Exchange Payment (such exchange, a “**Redemption**” and, together with a Direct Exchange (as defined below), an “**Exchange**”); provided, that (absent a waiver by the General Partner) any such Exchange is for a minimum of the lesser of (i) 10,000 Common Units (which minimum shall be equitably adjusted in accordance with any adjustments to the Exchange Rate) and (ii) all of the Common Units held by such Partnership Unitholder; provided, further, that in the event that an Exchanging Partner is participating in an underwritten offering or other block sale of Class A

Common Shares following such Exchange and a portion of its Paired Interests are being surrendered to the Partnership or the Company, as applicable, in furtherance thereof (such portion, the “**Secondary Offering Paired Interests**”), then the Partnership and the Company shall settle the Exchange of such Secondary Offering Paired Interests by delivery of a Stock Exchange Payment hereunder.

(b) A Partnership Unitholder shall exercise its right to make an Exchange as set forth in Section 2.1(a) above by delivering to the Partnership, with a copy to the Company, a written election of exchange in respect of the Paired Interests to be exchanged substantially in the form of Exhibit A hereto (an “**Exchange Notice**”) in accordance with this Section 2.1(b). A Partnership Unitholder may deliver an Exchange Notice with respect to an Unrestricted Exchange at any time, and, in any other case, during the Quarterly Exchange Notice Period preceding the desired Exchange Date. An Exchange Notice with respect to an Unrestricted Exchange may specify that the Exchange is to be contingent (including, without limitation, as to timing) upon the consummation of a purchase by another Person (whether in a tender or exchange offer, an underwritten offering or otherwise) of the Class A Common Shares into which the Paired Interests are exchangeable, or contingent (including, without limitation, as to timing) upon the closing of an announced merger, consolidation or other transaction or event in which such Class A Common Shares would be exchanged or converted or become exchangeable for or convertible into cash or other securities or property. Notwithstanding anything to the contrary contained in this Agreement, if, in connection with an Exchange in accordance with this Section 2.1, a filing is required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the “**HSR Act**”), then the Exchange Date with respect to all Paired Interests which would be exchanged into Class A Common Shares resulting from such Exchange shall be delayed until the earlier of (i) such time as the required filing under the HSR Act has been made and the waiting period applicable to such Exchange under the HSR Act shall have expired or been terminated or (ii) such filing is no longer required, at which time such Exchange shall automatically occur without any further action by the holders of any such Paired Interests. Each of the Partnership Unitholders and the Company agree to promptly take all actions required to make such filing under the HSR Act and the filing fee for such filing shall be paid by Partnership.

(c) Subject to Sections 2.1(a) and 2.2(a), within three (3) Business Days of the giving of an Exchange Notice, the Company may elect that all or a portion of the Exchange is settled in cash (in lieu of Class A Common Shares) in an amount equal to the Cash Exchange Payment by giving written notice of such election to the Partnership and the Exchanging Partner within such three (3) Business Day period (such notice, the “**Cash Exchange Notice**”). The Cash Exchange Notice shall set forth the portion of the Paired Interests which will be exchanged for cash in lieu of Class A Common Shares. Any portion of the Exchange not settled for a Cash Exchange Payment shall be settled for a Stock Exchange Payment. At any time following the giving of a Cash Exchange Notice and prior to the Exchange Date, the Company may elect (exercisable by giving written notice of such election to the Exchanging Partner) to revoke the Cash Exchange Notice with respect to all or any portion of the Paired Interests and make the Stock Exchange Payment with respect to any such Paired Interests on the Exchange Date.

(d) The Exchanging Partner may elect to retract its Exchange Notice with respect to an Unrestricted Exchange by giving written notice of such election to the Partnership, with a copy to the Partnership, no later than (1) Business Day prior to the Exchange Date. Subject to the terms of this Section 2.1(d), an Exchanging Partner may deliver an Exchange Notice with respect to an Exchange (other than an Unrestricted Exchange) during the Quarterly Exchange Notice Period which conditions such Exchange upon the Quarterly Exchange Date Value being equal to or greater than ninety percent (90%) of the Exchange Notice Date Value and if such requirement is not met, then the Exchanging Partner may elect to retract its Exchange Notice by giving written notice of such election to the Partnership, with a copy to the Company, no later than 12:00 p.m. (New York time) on the Trading Day preceding the Exchange Date (a “**Retraction Notice**”). The delivery of a Retraction Notice shall terminate all of the Exchanging Partner’s, the Company’s and the Partnership’s rights and obligations under this Article II arising from such retracted Exchange Notice (but not, for the avoidance of doubt, from any Exchange Notice not retracted or that may be delivered in the future); provided, that an Exchanging Partner may deliver a Retraction Notice only twice in each twelve (12)-month period (and any additional Retraction Notice delivered by such Exchanging Partner within such twelve (12)-month period shall be deemed null and void *ab initio* and ineffective with respect to the revocation of the Exchange specified therein).

(e) Notwithstanding anything to the contrary in this Agreement, if the Company closes an underwritten distribution of the Class A Common Shares and the Partnership Unitholders (any of them alone, or together with the Company) were entitled to resell Class A Common Shares in connection therewith (by the exercise by such Partnership Unitholders of Exchange rights or otherwise) (a “**Secondary Offering**”), then, except as provided in the following proviso, the immediately succeeding Quarterly Exchange Date shall be automatically cancelled and of no force or effect (and no Partnership Unitholder shall be entitled to deliver a Quarterly Exchange Date Notice with respect to an Exchange that is not an Unrestricted Exchange in respect of such Quarterly Exchange Date); provided, that the Company and the Partnership may effect an Exchange if the General Partner determines (in its reasonable discretion), after consultation with its legal counsel and tax advisors, that such Exchange, together with any other Exchanges that have occurred or are expected to occur, would not be reasonably likely to result in the Partnership being treated as a “publicly traded partnership” within the meaning of Section 7704 of the Code. Notwithstanding anything to the contrary in this Agreement (a) for such periods that the Partnership does not meet the requirements of the Private Placement Safe Harbor, any Secondary Offering (other than that pursuant to which all Exchanges are Unrestricted Exchanges) shall only be undertaken if, during the applicable taxable year, the total number of Quarterly Exchange Dates and prior Secondary Offerings (other than any pursuant to which all Exchanges are Unrestricted Exchanges) on which Exchanges occur is three (3) or fewer and (b) the Partnership and the Company shall not be deemed to have failed to comply with their respective obligations under the Registration Rights Agreement, if a Secondary Offering cannot be undertaken due to the restriction set forth in the preceding clause (a).

(f) Notwithstanding anything to the contrary contained in this Agreement or the Partnership Agreement, no Restricted Common Unit shall be permitted to be treated as an Exchanged Unit hereunder, and in no event shall the Partnership or the Company effect an Exchange of a Paired Interest that includes a Restricted Common Unit unless and until a Vesting Event and Conversion Date has occurred with respect to such Restricted Common Unit and it has

been converted to a Common Unit in accordance with the terms of the Partnership Agreement. For the avoidance of doubt and without limiting the immediately foregoing sentence, in the event a Vesting Event, Conversion Date and conversion into Common Unit has occurred in respect of a Restricted Common Unit, such then converted Common Unit shall be treated as an Exchanged Unit for all purposes hereunder and the Partnership and the Company may effect an Exchange of such then converted Common Unit (as part of a Paired Interest) in accordance with this Agreement and the Partnership LPA.

## SECTION 2.2 Exchange Payment

(a) The Exchange shall be consummated on the Exchange Date; *provided* that, in the event that an Exchange Notice with respect to an Unrestricted Exchange is delivered pursuant to Section 2.1(b) and specifies that it is predicated upon the settlement of an Exchange of Paired Interests sooner than on the Exchange Date, the Company and the Partnership shall use their respective commercially reasonable efforts to consummate the Exchange on the date specified in such Exchange Notice, which shall thereafter be deemed the Exchange Date for purposes of such Exchange; *provided* further that, notwithstanding anything to the contrary contained in this Agreement, in the event that an Exchange Notice is delivered in connection with a Secondary Offering or a block sale pursuant to Rule 144 of the Securities Act or other then available exemption from registration thereunder that is not an underwritten distribution but is an Unrestricted Exchange, and the Company has at least three (3) Business Days' notice prior to the settlement date thereof, the Exchange Date shall be the settlement date of such Secondary Offering or such block sale and the Exchange shall be consummated no later than the settlement of such Secondary Offering or such block sale on such date.

(b) In connection with any Exchange, the Exchanging Partner shall make any applicable Certificate Delivery requested or required by the Company.

(c) On the Exchange Date (to be effective immediately prior to the close of business on the Exchange Date), in the case of a Redemption, (i) the Company shall contribute to the Partnership, for delivery to the Exchanging Partner (x) the Stock Exchange Payment with respect to any Paired Interests not subject to a Cash Exchange Notice and (y) the Cash Exchange Payment with respect to any Paired Interests subject to a Cash Exchange Notice, (ii) the Exchanging Partner (A) shall surrender the Exchanged Units to the Partnership, free and clear of all liens and encumbrances, and the Partnership shall cancel such Exchanged Units and (B) transfer and surrender the corresponding number of Class B Common Shares to the Company, free and clear of all liens and encumbrances, and the Company shall cancel such Class B Common Share, (iii) the Partnership shall issue to the Company a number of Common Units equal to the number of Exchanged Units surrendered pursuant to the preceding clause (ii), (iv) solely to the extent necessary in connection with a Redemption, the Company shall undertake all actions, including, without limitation, an issuance, reclassification, distribution, division or recapitalization, with respect to the Class A Common Shares to maintain a one-to-one ratio (or such other ratio then in effect) between the number of Common Units owned by the Company, directly or indirectly, and the number of outstanding Class A Common Shares, taking into account the issuance in the preceding clause (iii), any Stock Exchange Payment and any other action taken in connection with this Section 2.2, and (v) the Partnership shall transfer to the Exchanging Partner the Cash Exchange Payment and/or the Stock Exchange Payment, as applicable.

(d) On the Exchange Date (to be effective immediately prior to the close of business on the Exchange Date), in the case of a Direct Exchange, (i) the Company shall deliver to the Exchanging Partner, (x) the Stock Exchange Payment with respect to any Paired Interests not subject to a Cash Exchange Notice and (y) the Cash Exchange Payment with respect to any Paired Interests subject to a Cash Exchange Notice, (ii) the Exchanging Partner shall transfer to the Company the Exchanged Units and the corresponding Class B Common Shares (it being understood that (A) the Company shall cancel the surrendered Class B Common Shares and (B) the Exchanged Units shall remain outstanding and the Company shall be treated for all purposes of this Agreement as the owner of such Exchanged Units), in each case free and clear of all liens and encumbrances, and (iii) solely to the extent necessary in connection with a Direct Exchange, the Company shall undertake all actions, including, without limitation, an issuance, reclassification, distribution, division or recapitalization, with respect to the Class A Common Shares to maintain a one-to-one ratio (or such other ratio then in effect) between the number of Common Units owned by the Company, directly or indirectly, and the number of outstanding Class A Common Shares, taking into account any Stock Exchange Payment and any other action taken in connection with this Section 2.2.

(e) Upon the Exchange of all of a Partnership Unitholder's Common Units and Restricted Common Units, such Partnership Unitholder shall cease, in accordance with the terms of the Partnership LPA, to be a Partner (as such term is defined in the Partnership LPA) of the Partnership.

### SECTION 2.3 Expenses and Restrictions.

(a) Except as expressly set forth in this Agreement, the Partnership and each Exchanging Partner shall bear its own expenses in connection with the consummation of any Exchange, whether or not any such Exchange is ultimately consummated, except that the Partnership shall bear any transfer taxes, stamp taxes or duties, or other similar taxes in connection with, or arising by reason of, any Exchange; provided, however, that if any Class A Common Shares are to be issued in a name other than that of the Partnership Unitholder that requested the Exchange, then such Partnership Unitholder and/or the person in whose name such shares are to be issued shall pay to the Partnership the amount of any transfer taxes, stamp taxes or duties, or other similar taxes in connection with, or arising by reason of, such Exchange or shall establish to the reasonable satisfaction of the Partnership that such tax has been paid or is not payable.

(b) Notwithstanding anything to the contrary herein, to the extent that the Partnership is otherwise eligible for the Private Placement Safe Harbor in any taxable year, the Company and the Partnership shall use commercially reasonable efforts to restrict issuances of Common Units in an amount sufficient for the Partnership to continue to be eligible for the Private Placement Safe Harbor, and, to the extent that the Company or the Partnership determines that the Partnership does not meet the requirements of the Private Placement Safe Harbor at any point in any taxable year, the Company or the Partnership may impose such additional restrictions on Exchanges (other than Exchanges that are Secondary Offerings) during such taxable year as the



Company or the Partnership may determine to be necessary or advisable so that the Partnership is not treated as a “*publicly traded partnership*” under Section 7704 of the Code; provided, that the restrictions imposed pursuant to this sentence shall not apply to any Unrestricted Exchange. Notwithstanding anything to the contrary herein, no Exchange shall be permitted (and, if attempted, shall be void ab initio) if, in the good faith determination of the Company or of the Partnership, such an Exchange would pose a material risk that the Partnership would be a “publicly traded partnership” under Section 7704 of the Code; provided, however, that this sentence shall not apply to prohibit a Block Transfer unless a change in applicable Law after the date of the signing of the Business Combination Agreement (as defined in the Partnership LPA) modifies the application or availability of Treasury Regulations Section 1.7704-1(e)(2).

(c) For the avoidance of doubt, and notwithstanding anything to the contrary herein, a Partnership Unitholder shall not be entitled to effect an Exchange (other than an Exchange in connection with settlement of a Secondary Offering or other Block Transfer) to the extent the Company reasonably determines in good faith that such Exchange (i) would be prohibited by law or regulation (including, without limitation, the unavailability of any requisite registration statement filed under the Securities Act, or any exemption from the registration requirements thereunder), or (ii) would not be permitted under any other agreements with the Company or its subsidiaries to which such Partnership Unitholder is party (including, without limitation, the Partnership LPA) or any written policies of the Company related to unlawful or inappropriate trading applicable to its directors, officers or other personnel.

(d) The Company may adopt reasonable procedures for the implementation of the exchange provisions set forth in this Article II, including, without limitation, procedures for the giving of notice of an election of exchange.

**SECTION 2.4 Adjustment.** The Exchange Rate shall be adjusted accordingly if there is: (a) any subdivision (by any unit split, unit distribution, reclassification, reorganization, recapitalization or otherwise) or combination (by reverse unit split, reclassification, reorganization, recapitalization or otherwise) of the Common Units that is not accompanied by an identical subdivision or combination of the Class A Common Shares or (b) any subdivision (by any share or stock split, stock dividend or distribution, reclassification, reorganization, recapitalization or otherwise) or combination (by reverse share or stock split, reclassification, reorganization, recapitalization or otherwise) of the Class A Common Shares that is not accompanied by an identical subdivision or combination of the Common Units. If there is any reclassification, reorganization, recapitalization or other similar transaction in which the Class A Common Shares are converted or changed into another security, securities or other property, then upon any subsequent Exchange, an Exchanging Partner shall be entitled to receive the amount of such security, securities or other property that such Exchanging Partner would have received if such Exchange had occurred immediately prior to the effective time of such reclassification, reorganization, recapitalization or other similar transaction, taking into account any adjustment as a result of any subdivision (by any share or stock split, distribution or dividend, reclassification, reorganization, recapitalization or otherwise) or combination (by reverse share or stock split, reclassification, recapitalization or otherwise) of such security, securities or other property that occurs after the effective time of such reclassification, reorganization, recapitalization or other similar transaction. Except as may be required in the immediately preceding sentence, no adjustments in respect of distributions shall be made upon the exchange of any Common Unit.

SECTION 2.5 Class A Common Shares to be Issued.

(a) The Company shall at all times reserve and keep available out of its authorized but unissued Class A Common Shares, solely for the purpose of issuance upon an Exchange, such number of Class A Common Shares as may be issued upon any such Exchange; provided, that nothing contained herein shall be construed to preclude the Company and the Partnership from satisfying its obligations in respect of the Exchange of the Paired Interests by the sale of Class A Common Shares which are held in the treasury of the Company or are held by the Partnership or any of their subsidiaries or by the issuance/sale of purchased Class A Common Shares (which may or may not be held in the treasury of the Company or held by any subsidiary thereof), or by delivery of the Cash Exchange Payment in accordance with the terms hereof. The Company covenants that all Class A Common Shares issued upon an Exchange will, upon issuance, be validly issued, fully paid and non-assessable.

(b) The Company and the Partnership shall at all times ensure that the execution and delivery of this Agreement by each of the Company and the Partnership and the consummation by each of the Company and the Partnership of the transactions contemplated hereby (including, without limitation, the issuance of the Class A Common Shares) have been duly authorized by all necessary corporate or limited liability company or partnership action, as the case may be, on the part of the Company and the Partnership, including, but not limited to, all actions necessary to ensure that the acquisition of Class A Common Shares pursuant to the transactions contemplated hereby, to the fullest extent of the PubCo Board's power and authority and to the extent permitted by law, shall not be subject to any "moratorium," "control share acquisition," "business combination," "fair price" or other form of anti-takeover laws and regulations of any jurisdiction that may purport to be applicable to this Agreement or the transactions contemplated hereby.

(c) The Company covenants and agrees that, to the extent that a registration statement under the Securities Act is effective and available for Class A Common Shares to be issued with respect to any Exchange, shares that have been registered under the Securities Act shall be issued in respect of such Exchange. In the event that any Exchange in accordance with this Agreement is to be effected at a time when any required registration has not become effective or otherwise is unavailable, upon the request and with the reasonable cooperation of the Partnership Unitholder requesting such Exchange, the Company shall use commercially reasonable efforts to promptly facilitate such Exchange pursuant to any reasonably available exemption from such registration requirements. The Class A Common Shares to be issued following completion of an Exchange may, in the sole discretion of the Company, be restricted and/or legended securities to the extent required under the Securities Act, the regulations promulgated thereunder or any other applicable federal or state securities laws. The Company shall use commercially reasonable efforts to list the Class A Common Shares required to be issued upon the Exchange prior to such issue upon each national securities exchange or inter-dealer quotation system upon which the outstanding Class A Common Shares may be listed or traded at the time of such issue.

SECTION 2.6 Direct Exchange. Notwithstanding anything to the contrary in this Article II, the Company may, in its sole and absolute discretion, elect to effect on the Exchange Date the Exchange of Paired Interests for the Cash Exchange Payment and/or the Stock Exchange Payment, as the case may be (and subject to the terms of Section 2.2(a), (c) and (d)), through a direct exchange of such Paired Interests between the Exchanging Partner and the Company (a “**Direct Exchange**”). Upon such Direct Exchange pursuant to this Section 2.6, the Company shall acquire the Exchanged Units (which shall remain outstanding) and the Company shall be treated for all purposes of this Agreement as the owner of such Exchanged Units; provided, that, any such election by the Company shall not relieve the Partnership of its obligation arising with respect to such applicable Exchange Notice. The Company may, at any time prior to an Exchange Date, deliver written notice (an “**Direct Exchange Election Notice**”) to the Partnership and the Exchanging Partner setting forth its election to exercise its right to consummate a Direct Exchange; provided, that such election does not prejudice the ability of the parties to consummate an Exchange or Direct Exchange on the Exchange Date. A Direct Exchange Election Notice may be revoked by the Company at any time; provided, that any such revocation does not prejudice the ability of the parties to consummate an Exchange or Direct Exchange on the Exchange Date. The right to consummate a Direct Exchange in all events shall be exercisable for all of the Paired Interests that would otherwise have been subject to an Exchange. Except as otherwise provided in this Section 2.6, a Direct Exchange shall be consummated pursuant to the same timeframe and in the same manner as the relevant Exchange would have been consummated had the Company not delivered a Direct Exchange Election Notice.

SECTION 2.7 Pubco Offer or Change of Control.

(a) In the event that a tender offer, share exchange offer, take-over bid, recapitalization or similar transaction with respect to any Class A Common Shares (a “**Pubco Offer**”) is proposed by the Company or is proposed to the Company or its shareholders and approved by the PubCo Board or is otherwise effected or to be effected with the consent or approval of the PubCo Board or the Company will undergo a Change of Control, the Partnership Unitholders shall be permitted to deliver an Exchange Notice (which Exchange Notice shall be effective immediately prior to the consummation of such Pubco Offer or Change of Control (and, for the avoidance of doubt, shall be contingent upon such Pubco Offer or Change of Control and not be effective if such Pubco Offer or Change of Control is not consummated)). In the case of a Pubco Offer proposed by the Company, the Company will use its reasonable best efforts expeditiously and in good faith to take all such actions and do all such things as are necessary or desirable to enable and permit the Partnership Unitholders to participate in such Pubco Offer to the same extent or on an economically equivalent basis as the holders of Class A Common Shares without discrimination (but excluding, for the avoidance of doubt, the Partnership Unitholders’ rights under the Tax Receivable Agreement in determining whether such participation is on an economically equivalent basis).

(b) The Company shall send written notice to the Partnership and the Partnership Unitholders at least thirty (30) Business Days prior to the closing date of the transactions contemplated by the Pubco Offer or the Change of Control notifying them of their rights pursuant to this Section 2.7, and setting forth, in the case of a Pubco Offer, (i) a copy of the written proposal or agreement pursuant to which the Pubco Offer will be effected, (ii) the

consideration payable in connection therewith, (iii) the terms and conditions of transfer and payment and (iv) the date and location of and procedures for selling Common Units and Restricted Common Units (if applicable), or in the case of a Change of Control, (x) a description of the event constituting the Change of Control, (y) the date of the Change of Control, and (z) a copy of any written proposals or agreement relating thereto. In the event that the information set forth in such notice changes from that set forth in the initial notice, a subsequent notice shall be delivered by the Company as promptly as reasonably practicable, but in any event no less than five (5) days prior to the closing of the Pubco Offer or Change of Control.

### ARTICLE III

SECTION 3.1 Additional Partnership Unitholders. To the extent a Partnership Unitholder validly transfers any or all of such holder's Common Units to another person in a transaction in accordance with, and not in contravention of, the Partnership LPA, the Lock-Up Agreement and any other agreement or agreements with the Company or any of its subsidiaries to which a transferring Partnership Unitholder may be party, then such transferee (each, a "**Permitted Transferee**") shall execute and deliver a joinder to this Agreement, substantially in the form of Exhibit B hereto, whereupon such Permitted Transferee shall become a Partnership Unitholder hereunder. To the extent the Partnership issues Common Units in the future, the Partnership shall be entitled, in its sole discretion, to make any holder of such Common Units a Partnership Unitholder hereunder through such holder's execution and delivery of a joinder to this Agreement, substantially in the form of Exhibit B hereto.

SECTION 3.2 Addresses and Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt) by delivery in person, by courier service, by fax, by electronic mail (delivery receipt requested) or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties at the following addresses (or at such other address for a party as shall be as specified in a notice given in accordance with this Section 3.2):

- (a) If to the Company, to:

ProKidney Corp.  
2000 Frontis Plaza Blvd., Suite 250  
Winston-Salem, NC 27103  
Attention: Tim Bertram, Chief Executive Officer  
Email: Tim.Bertram@prokidney.com

- (b) If to the Partnership, to:

ProKidney Corp. GP Limited  
70 Sir John Rogerson's Quay  
Dublin, Ireland  
Attention: Tim Bertram, Director  
Email: Tim.Bertram@prokidney.com

in each case, with a copy to (which shall not constitute notice):

Davis Polk & Wardwell LLP  
450 Lexington Avenue  
New York, New York 10017  
Attention: Lee Hochbaum, Richard Truesdell  
Email: lee.hochbaum@davispolk.com  
richard.truesdell@davispolk.com

and

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.  
555 12th Street NW, Suite 1100  
Washington, D.C. 20004  
Attention: Matthew Simpson  
Email: MTSimpson@mintz.com

and

Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
New York, New York 10036  
Attention: Stuart Leblang  
Jonathan Pavlich  
Email: sleblang@akingump.com  
jpavlich@akingump.com

(c) If to any Partnership Unitholder, to the address or other contact information set forth in the records of the Partnership from time to time.

SECTION 3.3 Further Action. The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

SECTION 3.4 Binding Effect. This Agreement shall be binding upon and inure to the benefit of all of the parties and, to the extent permitted by this Agreement, their successors, executors, administrators, heirs, legal representatives and assigns. No Partnership Unitholder may assign its rights under this Agreement without the consent of the Company and the Partnership.

SECTION 3.5 Severability. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions is not affected in any manner materially adverse to any party. Upon a determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

SECTION 3.6 Amendment. The provisions of this Agreement may be amended only by the affirmative vote or written consent of each of (i) the Company (with the approval of the majority of the disinterested members of the PubCo Board), (ii) the Partnership and (iii) Partnership Unitholders holding at least a majority of the then outstanding Common Units (excluding Common Units held by the Company); provided that, for purposes of this clause (iii), in addition to the consent required by clauses (i) and (ii), no amendment may materially, disproportionately and adversely affect the rights of a Partnership Unitholder (other than the Company and its subsidiaries) without the consent of such Partnership Unitholder (or, if there is more than one such Partnership Unitholder that is so affected, without the consent of a majority in interest of such affected Partnership Unitholders (other than the Company and its subsidiaries) in accordance with their holdings of Common Units).

SECTION 3.7 Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach of any other covenant, duty, agreement or condition.

SECTION 3.8 Submission to Jurisdiction; Waiver of Jury Trial.

(a) Any and all disputes which cannot be settled amicably with respect to this Agreement, including, without limitation, any action (at law or in equity), claim, litigation, suit, arbitration, hearing, audit, review, inquiry, proceeding, investigation or ancillary claims of any party, arising out of, relating to or in connection with the validity, negotiation, execution, interpretation, performance or non-performance of this Agreement or any matter arising out of or in connection with this Agreement and the rights and obligations arising hereunder or thereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder or thereunder brought by a party hereto or its successors or assigns, shall be brought and determined exclusively in the Delaware Chancery Court, or if such court shall not have jurisdiction, any federal court located in the State of Delaware, or, if neither of such courts shall have jurisdiction, any other Delaware state court. Each of the parties hereby irrevocably submits with regard to any such dispute for itself and in respect of its property, generally and unconditionally, to the sole and exclusive personal jurisdiction of the aforesaid courts and agrees that it will not bring any dispute relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the aforesaid courts. Each party irrevocably consents to service of process in any dispute in any of the aforesaid courts by the mailing of copies thereof by registered or certified mail, postage prepaid, or by recognized overnight delivery service, to such party at such party's address referred to in Section 3.2. Each party hereby irrevocably and unconditionally waives, and agrees not to assert as a defense, counterclaim or otherwise, in any action brought by any party with respect to this Agreement (i) any claim that it is not personally subject to the jurisdiction of the aforesaid courts for any reason other than the failure to serve process in accordance with this Section 3.8; (ii) any claim that it or its property is exempt or immune from the jurisdiction of any such court or from any legal process

commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise); or (iii) any objection which such party may now or hereafter have (A) to the laying of venue of any of the aforesaid actions arising out of or in connection with this Agreement brought in the courts referred to above; (B) that such action brought in any such court has been brought in an inconvenient forum and (C) that this Agreement, or the subject matter hereof or thereof, may not be enforced in or by such courts.

(b) To the extent that any party has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself, or to such party's property, each such party hereby irrevocably waives such immunity in respect of such party's obligations with respect to this Agreement.

(c) EACH PARTY ACKNOWLEDGES THAT IT IS KNOWINGLY AND VOLUNTARILY AGREEING TO THE CHOICE OF DELAWARE LAW TO GOVERN THIS AGREEMENT AND TO THE JURISDICTION OF DELAWARE COURTS IN CONNECTION WITH PROCEEDINGS BROUGHT HEREUNDER. THE PARTIES INTEND THIS TO BE AN EFFECTIVE CHOICE OF DELAWARE LAW AND AN EFFECTIVE CONSENT TO JURISDICTION AND SERVICE OF PROCESS UNDER 6 DEL. C. § 2708.

(d) EACH PARTY, FOR ITSELF AND ITS AFFILIATES, HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT.

SECTION 3.9 Counterparts. This Agreement may be executed and delivered (including, without limitation, by facsimile transmission or by e-mail delivery of a *“.pdf”* format data file) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed and delivered shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Copies of executed counterparts transmitted by telecopy, by e-mail delivery of a *“.pdf”* format data file or other electronic transmission service shall be considered original executed counterparts for purposes of this Section 3.9.

SECTION 3.10 Tax Treatment. This Agreement shall be treated as part of the partnership agreement of the Partnership as described in Section 761(c) of the Code and Sections 1.704-1(b)(2)(ii)(h) and 1.761-1(c) of the Treasury Regulations promulgated thereunder. As required by the Code and the Treasury Regulations, the parties shall report any Exchange consummated hereunder as a taxable sale of the Exchanged Units (together with an equal number of Class B Common Shares) by a Partnership Unitholder to the Company in exchange for (i) the payment by the Company of the Stock Exchange Payment, the Cash Exchange Payment, or other applicable consideration to the Exchanging Partner and, if applicable, (ii) corresponding payments under the Tax Receivable Agreement, and no party shall take a contrary position on any income tax return, amendment thereof or communication with any Taxing Authority unless an alternate position is permitted under the Code and Treasury Regulations and the Company consents in

writing to such alternate position, such consent not to be unreasonably withheld, conditioned, or delayed. Further, in connection with any Exchange consummated hereunder, the Partnership and/or the Company shall provide the exchanging Partnership Unitholder with all reasonably necessary information to enable the exchanging Partnership Unitholder to file its income Tax returns for the taxable year that includes the Exchange, including, without limitation, information with respect to assets under Section 751 of the Code (including, without limitation, relevant information regarding “*unrealized receivables*” or “*inventory items*”) and basis adjustments under Section 743(b) of the Code as soon as practicable and in all events within 60 days following the close of such taxable year (and use commercially reasonable efforts to provide estimates of such information within 90 days of the applicable Exchanges). Within thirty (30) days following the Exchange Date, the Company shall deliver a notification to the Partnership in accordance with Treasury Regulations Section 1.743-1(k)(2).

SECTION 3.11 Withholding. The Company and the Partnership shall be entitled to deduct and withhold from any payments made to a Partnership Unitholder pursuant to any Exchange consummated under this Agreement all Taxes that each of the Company and the Partnership is required to deduct and withhold with respect to such payments under the Code and any other provision of applicable law (including, without limitation, under Section 1445 and Section 1446(f) of the Code). In connection with any Exchange, the Exchanging Partner shall, to the extent it is legally entitled to deliver such form, deliver to the Company or the Partnership, as applicable, a certificate, dated as of the Exchange Date, in a form reasonably acceptable to the Company certifying as to such Exchanging Partner’s taxpayer identification number and that such Exchanging Partner is a not a foreign person for purposes of Section 1445 and Section 1446(f) of the Code (which certificate may be an Internal Revenue Service Form W-9 if then sufficient for such purposes under applicable law) (such certificate, a “*Non-Foreign Person Certificate*”). If an Exchanging Partner is unable to provide a Non-Foreign Person Certificate in connection with an Exchange, then (i) the Partnership shall provide a certificate substantially in the form described in Treasury Regulations Section 1.1446(f)-2(c)(2)(ii)(C) setting forth the liabilities of the Partnership allocated to the Exchanged Units subject to the Exchange under Section 752 of the Code or (ii) each of the Exchanging Partner and the Partnership shall, to the extent it is legally entitled to do so, deliver such other certificate reasonably acceptable to the Company to permit the Partnership and the Company to comply with Sections 1445 and 1446(f), and the Company or the Partnership, as and to the extent applicable, shall be permitted to deduct and withhold on the amount realized by such Exchanging Partner in respect of such Exchange if and as provided in Section 1446(f) of the Code and Treasury Regulations thereunder. The Company or the Partnership, as applicable, may at their sole discretion reduce the Class A Common Shares issued to a Partnership Unitholder in an Exchange in an amount that corresponds to the amount of the required withholding described in the immediately preceding sentence. All amounts so deducted and withheld shall be treated for all purposes of this Agreement as having been paid to such Partnership Unitholder in respect of which such deduction or withholding was made.

SECTION 3.12 Specific Performance. The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that such parties shall be entitled to specific performance of the terms and provisions hereof, in addition to any other remedy to which they are entitled at law or in equity.



SECTION 3.13 Independent Nature of the Partnership Unitholders' Rights and Obligations. The obligations of each Partnership Unitholder hereunder are several and not joint with the obligations of any other Partnership Unitholder, and no Partnership Unitholder shall be responsible in any way for the performance of the obligations of any other Partnership Unitholder hereunder. The decision of each Partnership Unitholder to enter into this Agreement has been made by such Partnership Unitholder independently of any other Partnership Unitholder. Nothing contained herein, and no action taken by any Partnership Unitholder pursuant hereto, shall be deemed to constitute the Partnership Unitholders as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Partnership Unitholders are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated hereby. The Company acknowledges that the Partnership Unitholders are not acting in concert or as a group, and the Company will not assert any such claim, with respect to such obligations or the transactions contemplated hereby.

SECTION 3.14 Applicable Law. This Agreement shall be governed by, and construed in accordance with, the law of the State of Delaware, without regards to its principles of conflicts of laws.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered, all as of the date first set forth above.

**PROKIDNEY CORP.**

By: /s/ Timothy A. Bertram

Name: Timothy A. Bertram

Title: Chief Executive Officer and Director

*[Signature Page to Exchange Agreement]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered, all as of the date first set forth above.

For and on behalf of **PROKIDNEY LP** by its general partner, **PROKIDNEY CORP. GP LIMITED**

By: /s/ Jaime Gomez Sotomayor

Name: Jaime Gomez Sotomayor

Title: Authorized Signatory

*[Signature Page to Exchange Agreement]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered, all as of the date first set forth above.

**PARTNERSHIP UNITHOLDERS:**

**TOLERANTIA, LLC**

By: /s/ Jaime Gomez Sotomayor  
Name: Jaime Gomez Sotomayor  
Title: Authorized Signatory

**CONTROL EMPRESARIAL DE CAPITALES, S.A. DE C.V.**

By: /s/ Armando Ibañez Vázquez  
Name: Armando Ibañez Vázquez  
Title: Attorney-in-fact

**PROKIDNEY MANAGEMENT EQUITY LLC**

By Tolerantia, LLC, its manager

By: /s/ Jaime Gomez Sotomayor  
Name: Jaime Gomez Sotomayor  
Title: Authorized Signatory

*[Signature Page to Exchange Agreement]*

EXHIBIT A

EXCHANGE NOTICE

ProKidney Corp. GP Limited  
70 Sir John Rogerson's Quay  
Dublin, Ireland  
Attention: Tim Bertram, Director  
Email: Tim.Bertram@prokidney.com

Reference is hereby made to the Exchange Agreement, dated as of July 11, 2022 (as amended from time to time, the "*Exchange Agreement*"), among ProKidney Corp., a Cayman Islands exempted company limited by shares (formerly known as Social Capital Suvretta Holdings Corp. III) (the "*Company*"), ProKidney LP, a limited partnership organized under the laws of Ireland (together with any successor thereto, the "*Partnership*"), acting through its general partner ProKidney Corp. GP Limited, and the Partnership Unitholders from time to time party thereto (each, a "*Holder*"). Capitalized terms used but not defined herein shall have the meanings given to them in the Exchange Agreement.

The undersigned Holder hereby transfers the number of Paired Interests set forth below in Exchange for the Stock Exchange Payment to be issued in its name as set forth below, or the Cash Exchange Payment, as applicable, as set forth in the Exchange Agreement.

The undersigned Holder agrees and acknowledges that as set forth in the Exchange Agreement, the Class A Common Shares to be issued following completion of an Exchange may, in the sole discretion of the Company, be restricted and/or legended securities under the Securities Act, the regulations promulgated thereunder or any other applicable federal or state securities laws, which may not be sold or transferred without a registration statement filed under the Securities Act or an applicable exemption from the registration requirements thereunder.

Legal Name of Holder: \_\_\_\_\_  
Address: \_\_\_\_\_  
Number of Paired Interests to be Exchanged: \_\_\_\_\_  
Brokerage Account Details: \_\_\_\_\_

The undersigned hereby represents and warrants that (i) the undersigned has full legal capacity to execute and deliver this Exchange Notice and to perform the undersigned's obligations hereunder; (ii) this Exchange Notice has been duly executed and delivered by the undersigned and is the legal, valid and binding obligation of the undersigned enforceable against it in accordance with the terms thereof or hereof, as the case may be, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally and the availability of equitable remedies; (iii) the Paired Interests subject to this Exchange Notice are being transferred to the Company or the Partnership, as applicable, free and clear of any pledge, lien, security interest, encumbrance, equities or claim; and (iv) no consent, approval, authorization, order, registration or qualification of any third party or with any court or governmental agency or body having jurisdiction over the undersigned or the Paired Interests subject to this Exchange Notice is required to be obtained by the undersigned for the transfer of such Paired Interests to the Company or the Partnership, as applicable.

The undersigned hereby irrevocably constitutes and appoints any officer of the Company or any director or officer of the General Partner as the attorney of the undersigned, with full power of substitution and resubstitution in the premises, to do any and all things and to take any and all actions that may be necessary to transfer to the Company or the Partnership, as applicable, the Paired Interests subject to this Exchange Notice and to deliver to the undersigned the Stock Exchange Payment or Cash Exchange Payment, as applicable, to be delivered in exchange therefor.

IN WITNESS WHEREOF the undersigned, by authority duly given, has caused this Exchange Notice to be executed and delivered by the undersigned or by its duly authorized attorney.

\_\_\_\_\_  
Name:

Dated: \_\_\_\_\_

**EXHIBIT B**

**JOINDER**

This Joinder Agreement (“*Joinder Agreement*”) is a joinder to the Exchange Agreement, dated as of July 11, 2022 (as amended from time to time, the “*Exchange Agreement*”), among ProKidney Corp., a Cayman Islands exempted company limited by shares (formerly known as Social Capital Suvretta Holdings Corp. III) (the “*Company*”), ProKidney LP, a limited partnership organized under the laws of Ireland (together with any successor thereto, “*Partnership*”), acting through its general partner ProKidney Corp. GP Limited, and each of the Partnership Unitholders from time to time party thereto. Capitalized terms used but not defined in this Joinder Agreement shall have their meanings given to them in the Exchange Agreement. This Joinder Agreement shall be governed by, and construed in accordance with, the law of the State of Delaware. In the event of any conflict between this Joinder Agreement and the Exchange Agreement, the terms of this Joinder Agreement shall control.

The undersigned hereby joins and enters into the Exchange Agreement having acquired Common Units in the Partnership. By signing and returning this Joinder Agreement to the Company, the undersigned accepts and agrees to be bound by and subject to all of the terms and conditions of and agreements of a Partnership Unitholder contained in the Exchange Agreement, with all attendant rights, duties and obligations of a Partnership Unitholder thereunder. The parties to the Exchange Agreement shall treat the execution and delivery hereof by the undersigned as the execution and delivery of the Exchange Agreement by the undersigned and, upon receipt of this Joinder Agreement by the Company and by Partnership, the signature of the undersigned set forth below shall constitute a counterpart signature to the signature page of the Exchange Agreement.

Name: \_\_\_\_\_

Address for Notices:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

With copies to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**LOCK-UP AGREEMENT**

THIS LOCK-UP AGREEMENT (this “*Agreement*”) is made and entered into as of July 11, 2022, by and between ProKidney Corp., a Cayman Islands exempted company limited by shares (the “*Company*”) (formerly known as Social Capital Suvretta Holdings Corp. III), and each of SCS Sponsor III LLC, a Cayman Islands limited liability company (“*Sponsor*”), the Persons set forth on Schedule 1 hereto (the “*Sponsor Key Holders*”) and certain equityholders of ProKidney LP, a limited partnership organized under the laws of Ireland (“*ProKidney*”), set forth on Schedule 2 hereto (such equityholders, the “*ProKidney Holders*”). The Sponsor, the Sponsor Key Holders, the ProKidney Holders and any Person who hereafter becomes a party to this Agreement pursuant to Section 2 are referred to herein, individually, as a “*Holder*” and, collectively, as the “*Holdings*.”

**WHEREAS**, capitalized terms used but not otherwise defined in this Agreement shall have the meanings ascribed to such terms in that certain Business Combination Agreement, dated as of January 18, 2022 (as it may be amended or supplemented from time to time, the “*Business Combination Agreement*”), by and between the Company and ProKidney; and

**WHEREAS**, in connection with the transactions contemplated by the Business Combination Agreement, and in view of the valuable consideration to be received by the parties thereunder, the Company and each of the Holders desire to enter into this Agreement, pursuant to which the Holders’ Lock-Up Shares shall become subject to limitations on Transfer as set forth herein.

**NOW, THEREFORE**, in consideration of the premises set forth above, which are incorporated in this Agreement as if fully set forth below, and intending to be legally bound hereby, the Company hereby agrees with each of the Holders as follows:

1. **Definitions.** The terms defined in this Section 1 shall, for all purposes of this Agreement, have the respective meanings set forth below:

(a) “**Earn-Out Shares**” shall mean the shares of Acquiror Common Stock or New Company Common Units, if any, issued pursuant to Section 2.5 of the Business Combination Agreement.

(b) “**Lock-Up Period**” shall mean, except with respect to the Earn-Out Shares, the period beginning on the Closing Date and ending on the earlier of (i) the date that is 180 days after the Closing Date and (ii) (A) in the case of the Private Placement Shares (as defined in the Insider Letters (as defined below)), the last day of the Private Placement Shares Lock-Up Period (as defined in the Insider Letters) and (B) in the case of Lock-Up Shares other than the Private Placement Shares, (I) for 33% of the Lock-Up Shares (other than the Private Placement Shares and the Earn-Out Shares) held by the Holders and their respective Permitted Transferees, the date on which the last reported sale price of Acquiror Class A Common Stock equals or exceeds \$12.50 per share (as adjusted for stock splits, stock dividends, reorganizations, recapitalizations and the like) for any twenty (20) trading days within any thirty (30)-trading day period commencing at least thirty (30) days after the Closing Date and (II) for an additional 50% of the Lock-Up Shares (other than the Private Placement Shares and the Earn-Out Shares) held by the

Holders and their respective Permitted Transferees (i.e., clauses (I) plus (II) totaling an aggregate of 83% of the Lock-Up Shares (other than the Private Placement Shares and the Earn-Out Shares) held by the Holders and their respective Permitted Transferees), the date on which the last reported sale price of Acquiror Class A Common Stock equals or exceeds \$15.00 per share (as adjusted for stock splits, stock dividends, reorganizations, recapitalizations and the like) for any twenty (20) trading days within any thirty (30)-trading day period commencing at least thirty (30) days after the Closing Date; *provided, that*, notwithstanding anything to the contrary in the foregoing, in the case of any Lock-Up Shares held by a ProKidney Holder or an affiliate of a ProKidney Holder, solely with respect to fifty percent (50%) of such ProKidney Holder or such affiliate's Lock-Up Shares, the earlier of (i) four (4) years following the Closing Date and (ii) the date that the Company shall have received notice of any regulatory market authorization, including full or conditional authorization, to market its lead product candidate, Renal Autologous Cell Therapy (it being understood and agreed that, with respect to this proviso, such number of Lock-Up Shares shall be based solely on the calculation of such holder's Lock-Up Shares as of the Closing Date and such Lock-Up Period shall not in any case end earlier than 180 days after the Closing Date). With respect to each Earn-Out Share, the "**Lock-Up Period**" shall mean the period beginning on the date on which such Earn-Out Share is issued in accordance with the Business Combination Agreement (if any) and ending 180 days after such date; *provided, that*, in the case of any Earn-Out Shares held by a ProKidney Holder or an affiliate of a ProKidney Holder, solely with respect to fifty percent (50%) of such ProKidney Holder or such affiliate's Earn-Out Shares, the earlier of (i) four (4) years following the Closing Date and (ii) the date that the Company shall have received notice of any regulatory market authorization, including full or conditional authorization, to market its lead product candidate, Renal Autologous Cell Therapy (it being understood and agreed that, with respect to this proviso, such Lock-Up Period shall not in any case end earlier than 180 days after the date on which such Earn-Out Shares are issued in accordance with the Business Combination Agreement).

(c) "**Lock-Up Shares**" shall mean with respect to (i) Sponsor, the Sponsor Key Holders and their respective Permitted Transferees, the shares of Acquiror Common Stock held by the such Person immediately following the Closing (other than the PIPE Shares or shares of Acquiror Common Stock acquired in the public market) and (ii) the ProKidney Holders and their respective Permitted Transferees, (A) the shares of Acquiror Common Stock, New Company Common Units and other equity interests (including profits interests) of ProKidney held by such Person immediately following the Closing, including any PIPE Shares, but excluding any shares of Acquiror Common Stock acquired in the public market, (B) shares of Acquiror Common Stock, New Company Common Units or other equity interests of ProKidney issued upon settlement or exercise of profits interests, restricted stock units, stock options or other equity awards of the Company, ProKidney or their respective subsidiaries outstanding as of immediately following the Closing and (C) the Earn-Out Shares.

(d) "**Permitted Transferee**" shall mean any Person to whom a Holder is permitted to transfer Lock-Up Shares prior to the expiration of the Lock-Up Period pursuant to Section 2(b).

(e) "**PIPE Shares**" shall mean shares of Acquiror Common Stock purchased in the PIPE Investment.

(f) “*Transfer*” shall mean the (i) sale or assignment of, offer to sell, contract or agreement to sell, hypothecation, pledge, grant of any option to purchase or other disposal of or agreement to dispose of, directly or indirectly, or establishment or increase of a put equivalent position or liquidation or decrease of a call equivalent position within the meaning of Section 16 of the Exchange Act with respect to, any security, (ii) entry into any swap or other arrangement that transfers to another Person, in whole or in part, any of the economic consequences of ownership of any security, whether any such transaction is to be settled by delivery of such securities, in cash or otherwise, or (iii) public announcement of any intention to effect any transaction specified in clause (i) or (ii).

## 2. Lock-Up Provisions.

(a) Subject to Section 2(b), each Holder agrees that it shall not Transfer any Lock-Up Shares until the end of the applicable Lock-Up Period with respect to such Lock-Up Shares.

(b) Notwithstanding the provisions set forth in Section 2(a), each Holder or its respective Permitted Transferees may Transfer the Lock-Up Shares during the Lock-Up Period (i) to (A) the Company’s or ProKidney’s officers or directors, (B) any affiliates or family members of the Company’s or ProKidney’s officers or directors, (C) any direct or indirect partners, members or equity holders of the Sponsor or Sponsor Key Holders, any affiliates of the Sponsor or the Sponsor Key Holders or any related investment funds or vehicles controlled or managed by such Persons or their respective affiliates, or (D) the ProKidney Holders or any direct or indirect partners, members or equity holders of the ProKidney Holders, any affiliates of the ProKidney Holders or any related investment funds or vehicles controlled or managed by such Persons or their respective affiliates; (ii) in the case of an individual, by gift to a member of such individual’s immediate family or to a trust, the beneficiary of which is such individual or a member of such individual’s immediate family or an affiliate of such Person, or to a charitable organization; (iii) in the case of an individual, by virtue of laws of descent and distribution upon death of such individual; (iv) in the case of an individual, pursuant to a qualified domestic relations order, divorce settlement, divorce decree or separation agreement; (v) to a nominee or custodian of a Person to whom a Transfer would be permitted under clauses (i) through (iv) above; (vi) to the partners, members or equityholders of such Holder by virtue of the Sponsor’s organizational documents, as amended; (vii) in connection with a pledge of shares of Acquiror Class A Common Stock, shares of Acquiror Class B Common Stock or New Company Common Units, or any other securities convertible into or exercisable or exchangeable for shares of Class A Common Stock, shares of Acquiror Class B Common Stock or New Company Common Units, to a financial institution, including the enforcement of any such pledge by a financial institution; (viii) to the Company or ProKidney; (ix) as forfeitures of shares of Acquiror Common Stock pursuant to a “net” or “cashless” exercise of stock options; (x) as forfeitures of shares of Acquiror Common Stock or New Company Common Units to satisfy tax withholding requirements upon the vesting of equity-based awards granted pursuant to an equity incentive plan; (xi) in connection with a liquidation, merger, stock exchange, reorganization, tender offer approved by the Board of Directors of the Company or a duly authorized committee thereof or other similar transaction which results in all of the Company’s stockholders having the right to exchange their shares of Acquiror Common Stock for cash, securities or other property subsequent to the Closing Date; (xii) pursuant to an exchange of New Company Common Units

for shares of Acquiror Common Stock pursuant to the Exchange Agreement (provided, that any shares of Acquiror Common Stock for which New Company Common Units are exchanged pursuant to this clause (xii) shall continue to be Lock-Up Shares for the duration of the applicable Lock-Up Period); or (xiii) in connection with any legal, regulatory or other order; provided, however, that in the case of clauses (i) through (vi), such Permitted Transferees must enter into a written agreement with the Company agreeing to be bound by the transfer restrictions in this Section 2.

(c) In order to enforce this Section 2, the Company and ProKidney may impose stop-transfer instructions with respect to the Lock-Up Shares until the end of the Lock-Up Period.

(d) For the avoidance of doubt, each Holder shall retain all of its rights as a stockholder of the Company or equityholder of ProKidney, as applicable, with respect to the Lock-Up Shares during the Lock-Up Period, including the right to vote any Lock-Up Shares that such Holder is entitled to vote.

(e) If any Holder is granted a release or waiver from any lock-up agreement (such holder a “**Triggering Holder**”) executed in connection with the Closing prior to the expiration of the Lock-Up Period, then the undersigned shall also be granted an early release from its obligations hereunder on the same terms and on a pro-rata basis with respect to such number of Lock-Up Shares rounded down to the nearest whole Lock-Up Share equal to the product of (i) the total percentage of Lock-Up Shares held by the Triggering Holder immediately following the consummation of the Closing that are being released from the lock-up agreement multiplied by (ii) the total number of Lock-Up Shares held by the undersigned immediately following the consummation of the Closing; *provided that*, the foregoing shall not be applicable with respect to a release or waiver of any Holder that holds less than an aggregate of 100,000 New Company Common Units.

(f) The lock-up provisions in this Section 2 shall supersede the lock-up provisions contained in Sections 7(a) and 7(b) of that certain letter agreement dated as of June 29, 2021 and that certain letter agreement dated as of September 24, 2021, in each case by and among the Company, the Sponsor and certain of the Company’s current and former officers and directors (collectively, the “**Insider Letters**”) and which provisions in Sections 7(a) and 7(b) of the Insider Letters shall be of no further force or effect.

### 3. Miscellaneous.

(a) Governing Law. This Agreement, and all claims or causes of action (whether in contract or tort) that may be based upon, arise out of or relate to this Agreement or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement) will be governed by and construed in accordance with the internal laws of the State of Delaware applicable to agreements executed and performed entirely within such State.

(b) Consent to Jurisdiction and Service of Process. ANY PROCEEDING OR ACTION BASED UPON, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY MUST BE BROUGHT IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE (OR, ONLY TO THE EXTENT SUCH COURT DOES NOT HAVE SUBJECT MATTER JURISDICTION, THE SUPERIOR COURT OF THE STATE OF DELAWARE OR, IF IT HAS OR CAN ACQUIRE JURISDICTION, IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE), AND EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY (I) CONSENTS AND SUBMITS TO THE EXCLUSIVE JURISDICTION OF EACH SUCH COURT IN ANY SUCH PROCEEDING OR ACTION, (II) WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE TO PERSONAL JURISDICTION, VENUE OR TO CONVENIENCE OF FORUM, (III) AGREES THAT ALL CLAIMS IN RESPECT OF SUCH PROCEEDING OR ACTION SHALL BE HEARD AND DETERMINED ONLY IN ANY SUCH COURT AND (IV) AGREES NOT TO BRING ANY PROCEEDING OR ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY IN ANY OTHER COURT. SERVICE OF PROCESS WITH RESPECT THERETO MAY BE MADE UPON ANY PARTY TO THIS AGREEMENT BY MAILING A COPY THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO SUCH PARTY AT ITS ADDRESS AS PROVIDED IN SECTION 3(h), WITHOUT LIMITING THE RIGHT OF A PARTY TO SERVE PROCESS IN ANY OTHER MATTER PERMITTED BY APPLICABLE LAWS.

(c) Waiver of Jury Trial. EACH PARTY HERETO HEREBY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) EACH SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) EACH SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (IV) EACH SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 3(c).

(d) Assignment; Third Parties. This Agreement and all of the provisions hereof will be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns. This Agreement and all obligations of a Holder are personal to such Holder and may not be transferred or delegated at any time. Nothing contained in this Agreement shall be construed to confer upon any person who is not a signatory hereto any rights or benefits, as a third party beneficiary or otherwise.

(e) Specific Performance. Each Holder acknowledges that its obligations under this Agreement are unique, recognizes and affirms that in the event of a breach of this Agreement by such Holder, money damages will be inadequate and the Company will have no adequate remedy at law, and agrees that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed by such Holder in accordance with their specific terms or were otherwise breached. Accordingly, the Company shall be entitled to an injunction or restraining order to prevent breaches of this Agreement by a Holder and to enforce specifically the terms and provisions hereof, without the requirement to post any bond or other security or to prove that money damages would be inadequate, this being in addition to any other right or remedy to which such party may be entitled under this Agreement, at law or in equity.

(f) Amendment; Waiver. Upon (i) the approval of a majority of the total number of directors serving on the Board of Directors of the Company and (ii) the written consent of the Holders of a majority of the total Lock-Up Shares, compliance with any of the provisions, covenants and conditions set forth in this Agreement may be waived by the Company, or any of such provisions, covenants or conditions may be amended or modified, so long as no Holder is impacted disproportionately than any other Holder by such waiver, amendment or modification; provided, however, that notwithstanding the foregoing, any amendment hereto or waiver hereof that adversely affects a Holder, solely in its capacity as a holder of Lock-Up Shares, shall require the consent of the Holder so affected. No course of dealing between any Holder or the Company and any other party hereto or any failure or delay on the part of a Holder or the Company in exercising any rights or remedies under this Agreement shall operate as a waiver of any rights or remedies of any Holder or the Company. No single or partial exercise of any rights or remedies under this Agreement by a party shall operate as a waiver or preclude the exercise of any other rights or remedies hereunder or thereunder by such party.

(g) Interpretation. The titles and subtitles used in this Agreement are for convenience only and are not to be considered in construing or interpreting this Agreement. In this Agreement, unless the context otherwise requires: (i) any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa; (ii) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding or succeeding such term and shall be deemed in each case to be followed by the words “without limitation”; (iii) the words “herein,” “hereto,” and “hereby” and other words of similar import in this Agreement shall be deemed in each case to refer to this Agreement as a whole and not to any particular section or other subdivision of this Agreement; and (iv) the term “or” means “and/or”. The parties have participated jointly in the negotiation and drafting of this Agreement. Consequently, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

(h) Notices. All notices and other communications among the parties hereto shall be in writing and shall be deemed to have been duly given (i) when delivered in person, (ii) when delivered after posting in the United States mail having been sent registered or certified mail return receipt requested, postage prepaid or (iii) when delivered by FedEx or other nationally recognized overnight delivery service, addressed, if to the Company, to: ProKidney Corp., 2000 Frontis Plaza Blvd, Suite 250, Winston-Salem, NC 27103, Attn: Investor Relations, email: elizabeth.goodwin@prokidney.com, with a copy, which shall not constitute notice, to Todd Girolamo, General Counsel, email: todd.girolamo@prokidney.com; and if to any Holder, at such Holder's address or email address as set forth in the Company's books and records.

(i) Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

(j) Entire Agreement. This Agreement constitutes the full and entire understanding and agreement among the parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the parties is expressly canceled. Notwithstanding the foregoing, nothing in this Agreement (other than Section 2(f)) shall limit any of the rights, remedies or obligations of the Company or any of the Holders under any other agreement between any of the Holders and the Company, and nothing in any other agreement, certificate or instrument shall limit any of the rights, remedies or obligations of any of the Holders or the Company under this Agreement.

(k) Several Liability: The liability of any Holder hereunder is several (and not joint). Notwithstanding any other provision of this Agreement, in no event will any Holder be liable for any other Holder's breach of such other Holder's obligations under this Agreement.

(l) Counterparts. The undersigned hereby consents to receipt of this Agreement in electronic form and understands and agrees that this Agreement may be signed electronically. In the event that any signature is delivered by facsimile transmission, electronic mail or otherwise by electronic transmission evidencing an intent to sign this Agreement, such facsimile transmission, electronic mail or other electronic transmission shall create a valid and binding obligation of the undersigned with the same force and effect as if such signature were an original. Execution and delivery of this Agreement by facsimile transmission, electronic mail or other electronic transmission is legal, valid and binding for all purposes.

*[Remainder of Page Intentionally Left Blank; Signature Pages Follow]*

IN WITNESS WHEREOF, the parties have executed this Lock-Up Agreement as of the date first written above.

**COMPANY:**

**PROKIDNEY CORP.**

By: /s/ Timothy A. Bertram

Name: Timothy A. Bertram

Title: Chief Executive Officer and Director

*[Signature Page to Lock-Up Agreement]*



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**HOLDER:**

**SCS SPONSOR III LLC**

By: /s/ Chamath Palihapitiya

Name: Chamath Palihapitiya

Title: Chief Executive Officer

*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**UMA SINHA**

/s/ Uma Sinha

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*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**MARC SEMIGRAN**

/s/ Marc Semigran

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*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**TOLERANTIA, LLC**

By: /s/ Jaime Gomez Sotomayor

Name: Jaime Gomez Sotomayor

Title: Authorized Signatory

*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**CONTROL EMPRESARIAL DE CAPITALES, S.A. DE  
C.V.**

By: /s/ Armando Ibañez Vázquez

Name: Armando Ibañez Vázquez

Title: Attorney-in-fact

*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**PROKIDNEY MANAGEMENT EQUITY LLC**

By Tolerantia, LLC, its manager

By: /s/ Jaime Gomez Sotomayor

Name: Jaime Gomez Sotomayor

Title: Authorized Signatory

*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**PABLO LEGORRETA**

/s/ Pablo Legorreta

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*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**TIM BERTRAM**

/s/ Timothy A. Bertram

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*[Signature Page to Lock-Up Agreement]*



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**HOLDER:**

**JAMES COULSTON**

/s/ James Coulston

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*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**DEEPAK JAIN**

/s/ Deepak Jain

---

*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**ASHLEY JOHNS**

/s/ Ashley Johns

---

*[Signature Page to Lock-Up Agreement]*

---

**HOLDER:**

**JOE STAVAS**

/s/ Joe Stavas

---

*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**GAIL WARD**

/s/ Gail Ward

---

*[Signature Page to Lock-Up Agreement]*

---

**HOLDER:**

**DARIN WEBER**

/s/ Darin Weber

---

*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**WILLIAM DOYLE**

/s/ William Doyle

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*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**ALAN LOTVIN**

/s/ Alan Lotvin

---

*[Signature Page to Lock-Up Agreement]*



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**HOLDER:**

**BRIAN PEREIRA**

/s/ Brian Pereira

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*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**DEAN KAMEN**

/s/ Dean Kamen

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*[Signature Page to Lock-Up Agreement]*

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**HOLDER:**

**DEKAVERSE LLC**

By: /s/ Dean Kamen

Name: Dean Kamen

Title: Authorized Signatory

*[Signature Page to Lock-Up Agreement]*

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SCHEDULE 1

SPONSOR KEY HOLDERS

1. Uma Sinha
2. Marc Semigran

SCHEDULE 2

PROKIDNEY HOLDERS

1. Tolerantia, LLC
2. Control Empresarial de Capitales, S.A. de C.V.
3. ProKidney Management Equity LLC
4. Pablo Legorreta
5. Tim Bertram
6. James Coulston
7. Deepak Jain
8. Ashley Johns
9. Joe Stavas
10. Gail Ward
11. Darin Weber
12. William Doyle
13. Alan Lotvin
14. Brian Pereira
15. Dean Kamen
16. DEKAVERSE LLC
17. Any other Closing Company Unitholders not otherwise identified herein

## AMENDED AND RESTATED REGISTRATION RIGHTS AGREEMENT

THIS AMENDED AND RESTATED REGISTRATION RIGHTS AGREEMENT (this “*Agreement*”), dated as of July 11, 2022, is made and entered into by and among ProKidney Corp., a Cayman Islands exempted company limited by shares (the “*Company*”) (formerly known as Social Capital Suvretta Holdings Corp. III), SCS Sponsor III LLC, a Cayman Islands limited liability company (the “*Sponsor*”), certain holders of partnership interests in ProKidney LP, a limited partnership organized under the laws of Ireland (“*ProKidney*”), as set forth on Schedule 1 hereto (such stockholders, the “*ProKidney Holders*”), Marc Semigran and Uma Sinha (together with Marc Semigran, the “*Director Holders*”), Sukumar Nagendran and David Spiegel (together with Sukumar Nagendran, the “*Advisor Holders*”) and the parties set forth on Schedule 2 hereto (collectively, the “*Investor Stockholders*” and, collectively with the Sponsor, the ProKidney Holders, the Director Holders, the Advisor Holders and any person or entity who hereafter becomes a party to this Agreement pursuant to Section 5.2 or Section 5.10 of this Agreement, the “*Holder*” and each, a “*Holder*”).

## RECITALS

**WHEREAS**, the Company, the Sponsor and Marc Semigran are party to that certain Registration Rights Agreement, dated as of June 29, 2021 (the “*Original RRA*”);

**WHEREAS**, the Company and Uma Sinha are party to that certain Director Restricted Stock Unit Agreement, dated as of September 24, 2021, pursuant to which Dr. Sinha received a grant of 30,000 restricted stock units (“*RSUs*”) of the Company;

**WHEREAS**, the Company and Sukumar Nagendran are party to that certain Advisor Restricted Stock Unit Agreement, dated as of August 20, 2021, pursuant to which Mr. Nagendran received a grant of 10,000 RSUs of the Company;

**WHEREAS**, the Company and David Spiegel are party to that certain Advisor Restricted Stock Unit Agreement, dated as of August 27, 2021, pursuant to which Mr. Spiegel received a grant of 10,000 RSUs of the Company;

**WHEREAS**, the Company has entered into that certain Business Combination Agreement, dated as of January 18, 2022 (as it may be amended or supplemented from time to time, the “*Business Combination Agreement*”), by and between the Company and ProKidney;

**WHEREAS**, on the date hereof, pursuant to the Business Combination Agreement, the ProKidney Holders received New Company Common Units and Class B Common Stock;

**WHEREAS**, the New Company Common Units are exchangeable for shares of Class A Common Stock pursuant to the Exchange Agreement;

**WHEREAS**, on the date hereof, the Investor Stockholders purchased an aggregate of 12,640,000 shares of Class A Common Stock (the “*Investor Shares*”) in a transaction exempt from registration under the Securities Act pursuant to the respective Subscription Agreements, entered into by and between the Company and each of the Investor Stockholders (each, a “*Subscription Agreement*” and, collectively, the “*Subscription Agreements*”);

**WHEREAS**, pursuant to Section 5.5 of the Original RRA, the provisions, covenants and conditions set forth therein may be amended or modified upon the written consent of the Company and the Holders (as defined in the Original RRA) of at least a majority-in-interest of the Registrable Securities (as defined in the Original RRA) at the time in question, and the Sponsor and Marc Semigran are Holders (as defined in the Original RRA) in the aggregate of at least a majority-in-interest of the Registrable Securities (as defined in the Original RRA) as of the date hereof; and

**WHEREAS**, the Company, the Sponsor and Marc Semigran desire to amend and restate the Original RRA in its entirety and enter into this Agreement, pursuant to which the Company shall grant the Holders certain registration rights with respect to certain securities of the Company, as set forth in this Agreement, and terminate the Original RRA.

**NOW, THEREFORE**, in consideration of the representations, covenants and agreements contained herein, and certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

1.1 **Definitions.** The terms defined in this Article I shall, for all purposes of this Agreement, have the respective meanings set forth below:

“**Additional Holder**” shall have the meaning given in Section 5.10.

“**Additional Holder Common Stock**” shall have the meaning given in Section 5.10.

“**Adverse Disclosure**” shall mean any public disclosure of material non-public information, which disclosure, in the good faith judgment of the Chief Executive Officer or the Chief Financial Officer of the Company, after consultation with counsel to the Company, (i) would be required to be made in any Registration Statement or Prospectus in order for the applicable Registration Statement or Prospectus not to contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein (in the case of any Prospectus, in light of the circumstances under which they were made) not misleading, (ii) would not be required to be made at such time if the Registration Statement were not being filed, declared effective or used, as the case may be, and (iii) the Company has a bona fide business purpose for not making such information public.

“**Advisor Holders**” shall have the meaning given in the Preamble hereto.

“**Agreement**” shall have the meaning given in the Preamble hereto.

“**Block Trade**” shall have the meaning given in Section 2.4.1.

“**Board**” shall mean the Board of Directors of the Company.

“**Business Combination Agreement**” shall have the meaning given in the Recitals hereto.

“**Class A Common Stock**” means the Class A ordinary shares, par value \$0.0001 per share, of the Company.

“**Class B Common Stock**” means the Class B ordinary shares, par value \$0.0001 per share, of the Company.

“**Closing**” shall have the meaning given in the Business Combination Agreement.

“**Closing Date**” shall have the meaning given in the Business Combination Agreement.

“**Commission**” shall mean the Securities and Exchange Commission.

“**Common Stock**” shall mean the Class A Common Stock and the Class B Common Stock.

“**Company**” shall have the meaning given in the Preamble hereto and includes the Company’s successors by recapitalization, merger, consolidation, spin-off, reorganization or similar transaction.

“**Competing Registration Rights**” shall have the meaning given in [Section 5.7](#).

“**Demanding Holder**” shall have the meaning given in [Section 2.1.4](#).

“**Director Holders**” shall have the meaning given in the Preamble hereto.

“**Exchange Act**” shall mean the Securities Exchange Act of 1934, as it may be amended from time to time, and the rules and regulations of the Commission promulgated thereunder.

“**Exchange Agreement**” shall have the meaning given in the Business Combination Agreement.

“**Form S-1 Shelf**” shall have the meaning given in [Section 2.1.1](#).

“**Form S-3 Shelf**” shall have the meaning given in [Section 2.1.1](#).

“**Holder Information**” shall have the meaning given in [Section 4.1.2](#).

“**Holders**” shall have the meaning given in the Preamble hereto, for so long as such person or entity holds any Registrable Securities.

“**Investor Shares**” shall have the meaning given in the Recitals hereto.

“**Investor Stockholders**” shall have the meaning given in the Preamble hereto.

“**Joinder**” shall have the meaning given in [Section 5.10](#).



“**Maximum Number of Securities**” shall have the meaning given in Section 2.1.5.

“**Minimum Takedown Threshold**” shall have the meaning given in Section 2.1.4.

“**Misstatement**” shall mean an untrue statement of a material fact or an omission to state a material fact required to be stated in a Registration Statement or Prospectus or necessary to make the statements in a Registration Statement or Prospectus (in the case of a Prospectus, in light of the circumstances under which they were made) not misleading.

“**New Company Common Units**” shall have the meaning given in the Business Combination Agreement.

“**Original RRA**” shall have the meaning given in the Recitals hereto.

“**Permitted Transferees**” shall mean any person or entity to whom a Holder of Registrable Securities transfers such Registrable Securities, including prior to the expiration of any lock-up period applicable to such Registrable Securities (provided, in each case, such transfer is not prohibited by any applicable agreement between such Holder and/or their respective Permitted Transferees and the Company), and any transferee thereafter.

“**Piggyback Registration**” shall have the meaning given in Section 2.2.1.

“**ProKidney**” shall have the meaning given in the Preamble hereto.

“**ProKidney Holders**” shall have the meaning given in the Preamble hereto.

“**Prospectus**” shall mean the prospectus included in any Registration Statement, as supplemented by any and all prospectus supplements and as amended by any and all post-effective amendments and including all material incorporated by reference in such prospectus.

“**Registrable Security**” shall mean (a) any outstanding shares of Class A Common Stock (including shares of Class A Common Stock issued or issuable upon the exercise or settlement of warrants, RSUs or any other equity security) held by a Holder immediately following the Closing (including any Investor Shares); (b) any shares of Class A Common Stock issued or issuable pursuant to the Exchange Agreement; (c) any Additional Holder Common Stock; (d) any shares of Class A Common Stock acquired by a Holder following the date hereof to the extent that such securities are (i) “restricted securities” (as defined in Rule 144), (ii) held by an “affiliate” (as defined in Rule 144) of the Company or (iii) otherwise cannot be sold pursuant to Rule 144 or any successor rule promulgated under the Securities Act (with no volume or other restrictions or limitations including as to manner or timing of sale); and (d) any other equity security of the Company or any of its subsidiaries issued or issuable with respect to any securities referenced in clause (a), (b), (c) or (d) above by way of a stock dividend or stock split or in connection with a recapitalization, merger, consolidation, spin-off, reorganization or similar transaction; provided, however, that, as to any particular Registrable Security, such securities shall cease to be Registrable Securities upon the earliest to occur of: (A) a Registration Statement with respect to the sale of such securities shall have become effective under the Securities Act and such securities shall have been sold, transferred, disposed of or exchanged in accordance with such Registration Statement by the applicable Holder; (B) (i) such securities shall have been otherwise transferred

to a Person other than an affiliate of such Holder, (ii) new certificates for such securities not bearing (or book entry positions not subject to) a legend restricting further transfer shall have been delivered by the Company and (iii) subsequent public distribution of such securities shall not require registration under the Securities Act; (C) such securities shall have ceased to be outstanding; (D) so long as such Holder and its affiliates beneficially own less than three percent (3%) of the outstanding shares of Class A Common Stock in the aggregate, such securities may be sold without registration pursuant to Rule 144 or any successor rule promulgated under the Securities Act (but with no volume or other restrictions or limitations including as to manner or timing of sale); (E) such securities have been sold without registration pursuant to Section 4(a)(1) of the Securities Act or Rule 145 promulgated under the Securities Act or any successor rules promulgated under the Securities Act; and (F) such securities have been sold to, or through, a broker, dealer or underwriter in a public distribution or other public securities transaction.

“**Registration**” shall mean a registration, including any related Shelf Takedown, effected by preparing and filing a registration statement, Prospectus or similar document in compliance with the requirements of the Securities Act, and the applicable rules and regulations promulgated thereunder, and such registration statement becoming effective.

“**Registration Expenses**” shall mean the documented, out-of-pocket expenses of a Registration, including, without limitation, the following:

(A) all registration, listing and filing fees (including fees with respect to filings required to be made with the Financial Industry Regulatory Authority, Inc.) and any national securities exchange on which the Common Stock is then listed;

(B) fees and expenses of compliance with securities or “blue sky” laws (including reasonable fees and disbursements of outside counsel for the Underwriters in connection with blue sky qualifications of Registrable Securities and the fees and expenses of any “qualified independent underwriter” as such term is defined in FINRA Rule 5121);

(C) printing, messenger, telephone and delivery expenses;

(D) fees and disbursements of counsel for the Company;

(E) fees and disbursements of all independent registered public accountants of the Company, retained by the Company and any other persons, including special experts, incurred in connection with such Registration;

(F) all expenses in connection with the preparation, printing and filing of a Registration Statement, any Prospectus and amendments and supplements thereto and the mailing and delivering of copies thereof to any Holders, underwriters and dealers and all expenses incidental to delivery of the Registrable Securities;

(G) the expenses incurred in connection with making “road show” presentations and holding meetings with potential investors to facilitate the sale of Registrable Securities in an Underwritten Offering; and

(H) in an Underwritten Offering, reasonable fees and expenses of one (1) legal counsel selected by the majority-in-interest of the Demanding Holders.

**“Registration Statement”** shall mean any registration statement that covers Registrable Securities pursuant to the provisions of this Agreement, including the Prospectus included in such registration statement, amendments (including post-effective amendments) and supplements to such registration statement, and all exhibits to and all material incorporated by reference in such registration statement.

**“Requesting Holders”** shall have the meaning given in Section 2.1.5.

**“RSUs”** shall have the meaning given in the Recitals hereto.

**“Securities Act”** shall mean the Securities Act of 1933, as amended from time to time, and the rules and regulations of the Commission promulgated thereunder.

**“Shelf”** shall mean the Form S-1 Shelf, the Form S-3 Shelf or any Subsequent Shelf Registration Statement, as the case may be.

**“Shelf Registration”** shall mean a registration of securities pursuant to a registration statement filed with the Commission in accordance with and pursuant to Rule 415 promulgated under the Securities Act (or any successor rule then in effect).

**“Shelf Takedown”** shall mean an Underwritten Shelf Takedown or any proposed transfer or sale using a Registration Statement, including a Piggyback Registration or Block Trade.

**“Subscription Agreements”** shall have the meaning given in the Recitals hereto.

**“ProKidney Holders”** shall have the meaning given in the Preamble hereto.

**“Sponsor”** shall have the meaning given in the Preamble hereto.

**“Subsequent Shelf Registration Statement”** shall have the meaning given in Section 2.1.2.

**“Transfer”** shall mean the (a) sale or assignment of, offer to sell, contract or agreement to sell, grant of any option to purchase or otherwise dispose of or agreement to dispose of, directly or indirectly, or establishment or increase of a put equivalent position or liquidation with respect to or decrease of a call equivalent position within the meaning of Section 16 of the Exchange Act with respect to, any security, (b) entry into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any security, whether any such transaction is to be settled by delivery of such securities, in cash or otherwise, or (c) public announcement of any intention to effect any transaction specified in clause (a) or (b).

**“Underwriter”** shall mean a securities dealer who purchases any Registrable Securities as principal in an Underwritten Offering and not as part of such dealer’s market-making activities.

“**Underwritten Offering**” shall mean a Registration in which securities of the Company are sold to an Underwriter in a firm commitment underwriting for distribution to the public (including for the avoidance of doubt a Block Trade).

“**Underwritten Shelf Takedown**” shall have the meaning given in Section 2.1.4.

“**Withdrawal Notice**” shall have the meaning given in Section 2.1.6.

## ARTICLE II

### REGISTRATIONS AND OFFERINGS

#### 2.1 Shelf Registration.

2.1.1 Filing. Within thirty (30) calendar days following the Closing Date, the Company shall submit to or file with the Commission a Registration Statement for a Shelf Registration on Form S-1 (the “**Form S-1 Shelf**”) or a Registration Statement for a Shelf Registration on Form S-3 (the “**Form S-3 Shelf**”), if the Company is then eligible to use a Form S-3 Shelf, in each case, covering the resale of all the Registrable Securities (determined as of two (2) business days prior to such submission or filing) on a delayed or continuous basis and shall use its commercially reasonable efforts to have such Shelf declared effective as soon as practicable after the submission or filing thereof, but no later than the earlier of (a) the ninetieth (90<sup>th</sup>) calendar day following the submission or filing date thereof if the Commission notifies the Company that it will “review” the Registration Statement and (b) the tenth (10<sup>th</sup>) business day after the date the Company is notified (orally or in writing, whichever is earlier) by the Commission that the Registration Statement will not be “reviewed” or will not be subject to further review. Such Shelf shall provide for the resale of the Registrable Securities included therein pursuant to any method or combination of methods legally available to, and requested by, any Holder named therein. The Company shall maintain a Shelf in accordance with the terms hereof, and shall prepare and file with the Commission such amendments, including post-effective amendments, and supplements as may be necessary to keep a Shelf continuously effective, available for use to permit the Holders named therein to sell their Registrable Securities included therein and in compliance with the provisions of the Securities Act until such time as there are no longer any Registrable Securities. In the event the Company files a Form S-1 Shelf, the Company shall use its commercially reasonable efforts to convert the Form S-1 Shelf (and any Subsequent Shelf Registration Statement) to a Form S-3 Shelf as soon as practicable after the Company is eligible to use Form S-3. The Company’s obligation under this Section 2.1.1, shall, for the avoidance of doubt, be subject to Section 3.4.

2.1.2 Subsequent Shelf Registration. If any Shelf ceases to be effective under the Securities Act for any reason at any time while Registrable Securities are still outstanding, the Company shall, subject to Section 3.4, use its commercially reasonable efforts to as promptly as is reasonably practicable cause such Shelf to again become effective under the Securities Act (including using its commercially reasonable efforts to obtain the prompt withdrawal of any order suspending the effectiveness of such Shelf), and shall use its commercially reasonable efforts to as promptly as is reasonably practicable amend such Shelf in a manner reasonably expected to result in the withdrawal of any order suspending the effectiveness of such Shelf or file an additional

registration statement as a Shelf Registration (a “**Subsequent Shelf Registration Statement**”) registering the resale of all Registrable Securities (determined as of two (2) business days prior to such filing). If a Subsequent Shelf Registration Statement is filed, the Company shall use its commercially reasonable efforts to (i) cause such Subsequent Shelf Registration Statement to become effective under the Securities Act as promptly as is reasonably practicable after the filing thereof (it being agreed that the Subsequent Shelf Registration Statement shall be an automatic shelf registration statement (as defined in Rule 405 promulgated under the Securities Act) if the Company is a well-known seasoned issuer (as defined in Rule 405 promulgated under the Securities Act) at the most recent applicable eligibility determination date) and (ii) keep such Subsequent Shelf Registration Statement continuously effective, available for use to permit the Holders named therein to sell their Registrable Securities included therein and in compliance with the provisions of the Securities Act until such time as there are no longer any Registrable Securities. Any such Subsequent Shelf Registration Statement shall be on Form S-3 to the extent that the Company is eligible to use such form. Otherwise, such Subsequent Shelf Registration Statement shall be on another appropriate form. The Company’s obligation under this Section 2.1.2, shall, for the avoidance of doubt, be subject to Section 3.4.

2.1.3 Additional Registrable Securities. Subject to Section 3.4, in the event that any Holder holds Registrable Securities that are not registered for resale on a delayed or continuous basis, the Company, upon written request of the Sponsor, a ProKidney Holder, an Investor Stockholder, a Director Holder or an Advisor Holder, shall use commercially reasonable efforts to cause the resale of such Registrable Securities to be covered by either, at the Company’s option, any then available Shelf (including by means of a post-effective amendment) or by filing a Subsequent Shelf Registration Statement and cause the same to become effective as soon as practicable after such filing and such Shelf or Subsequent Shelf Registration Statement shall be subject to the terms hereof; provided, however, that the Company shall only be required to cause such Registrable Securities to be so covered twice per calendar year for each of the Sponsor, each ProKidney Holder, each Investor Stockholder, each Director Holder and each Advisor Holder; provided, further, that prior to making such filing with respect to any written request by a Holder, the Company shall notify the other Holders and provide such other Holders a reasonable opportunity to include additional Registrable Securities held by such other Holders in such filing.

2.1.4 Requests for Underwritten Shelf Takedowns. Subject to Section 3.4, at any time and from time to time when an effective Shelf is on file with the Commission, the Sponsor, an Investor Stockholder or a ProKidney Holder (any of the Sponsor, an Investor Stockholder or a ProKidney Holder being, in such case, a “**Demanding Holder**”) may request to sell all or any portion of its Registrable Securities in an Underwritten Offering that is registered pursuant to the Shelf (each, an “**Underwritten Shelf Takedown**”); provided that the Company shall only be obligated to effect an Underwritten Shelf Takedown if such offering shall include Registrable Securities proposed to be sold by the Demanding Holder, either individually or together with other Demanding Holders, with a total offering price reasonably expected to exceed, in the aggregate, \$50.0 million (the “**Minimum Takedown Threshold**”). All requests for Underwritten Shelf Takedowns shall be made by giving written notice to the Company, which shall specify the approximate number of Registrable Securities proposed to be sold in the Underwritten Shelf Takedown. Subject to Section 2.4.4, the Underwriters for such offering (which shall consist of one or more reputable nationally recognized investment banks) shall be selected by the majority-in-interest of the Demanding Holders, subject to the Company’s prior approval (which shall not be

unreasonably withheld, conditioned or delayed). The Sponsor, an Investor Stockholder and a ProKidney Holder may each demand not more than (i) one (1) Underwritten Shelf Takedown pursuant to this Section 2.1.4 within any six (6) month period or (ii) two (2) Underwritten Shelf Takedowns pursuant to this Section 2.1.4 in any twelve (12) month period. Notwithstanding anything to the contrary in this Agreement, the Company may effect any Underwritten Offering pursuant to any then effective Registration Statement, including a Form S-3, that is then available for such offering.

2.1.5 Reduction of Underwritten Offering. If the managing Underwriter or Underwriters in an Underwritten Shelf Takedown, in good faith, advises the Company, the Demanding Holders and the Holders requesting piggy back rights pursuant to this Agreement with respect to such Underwritten Shelf Takedown (the “**Requesting Holders**”) (if any) in writing that the dollar amount or number of Registrable Securities that the Demanding Holders and the Requesting Holders (if any) desire to sell, taken together with all other shares of Class A Common Stock or other equity securities that the Company desires to sell and the shares of Class A Common Stock or other equity securities, if any, as to which a Registration has been requested pursuant to separate written contractual piggy-back registration rights held by any other stockholders who desire to sell, exceeds the maximum dollar amount or maximum number of equity securities that can be sold in the Underwritten Offering without adversely affecting the proposed offering price, the timing, the distribution method, or the probability of success of such offering (such maximum dollar amount or maximum number of such securities, as applicable, the “**Maximum Number of Securities**”), then the Company shall include in such Underwritten Offering, before including any shares of Class A Common Stock or other equity securities proposed to be sold by Company or by other holders of Class A Common Stock or other equity securities, the Registrable Securities of the Demanding Holders and the Requesting Holders (if any) (pro rata based on the respective number of Registrable Securities that each Demanding Holder and Requesting Holder (if any) has requested be included in such Underwritten Shelf Takedown and the aggregate number of Registrable Securities that the Demanding Holders and Requesting Holders have requested be included in such Underwritten Shelf takedown) that can be sold without exceeding the Maximum Number of Securities.

2.1.6 Withdrawal. Prior to the filing of the applicable “red herring” prospectus or prospectus supplement used for marketing such Underwritten Shelf Takedown, any Demanding Holder initiating an Underwritten Shelf Takedown shall have the right to withdraw from such Underwritten Shelf Takedown for any or no reason whatsoever upon written notification (a “**Withdrawal Notice**”) to the Company and the Underwriter or Underwriters (if any) of their intention to withdraw from such Underwritten Shelf Takedown; provided that the Sponsor, an Investor Stockholder or a ProKidney Holder may elect to have the Company continue an Underwritten Shelf Takedown if the Minimum Takedown Threshold would still be satisfied by the Registrable Securities proposed to be sold in the Underwritten Shelf Takedown by the Sponsor, the Investor Stockholders, the ProKidney Holders or any of their respective Permitted Transferees, as applicable. If withdrawn by a Demanding Holder, the Sponsor, an Investor Stockholder or a ProKidney Holder may elect to continue an Underwritten Shelf Takedown pursuant to the proviso in the immediately preceding sentence and such Underwritten Shelf Takedown shall instead count as an Underwritten Shelf Takedown demanded by the Sponsor, such Investor Stockholder or such ProKidney Holder, as applicable, for purposes of Section 2.1.4. Following the receipt of any Withdrawal Notice, the Company shall promptly forward such Withdrawal Notice to any other

Holders that had elected to participate in such Shelf Takedown and shall not include the Registrable Securities of such withdrawing Demanding Holder in the applicable registration and such Registrable Securities shall continue to be Registrable Securities for all purposes of this Agreement (subject to the other terms and conditions of this Agreement). Notwithstanding anything to the contrary in this Agreement, the Company shall be responsible for the Registration Expenses incurred in connection with a Shelf Takedown prior to its withdrawal under this [Section 2.1.6](#).

## 2.2 [Piggyback Registration](#).

2.2.1 [Piggyback Rights](#). Subject to [Section 2.4.3](#), if the Company or any Holder proposes to conduct a registered offering of, or if the Company proposes to file a Registration Statement under the Securities Act with respect to the Registration of, equity securities, or securities or other obligations exercisable or exchangeable for, or convertible, into equity securities, for its own account or for the account of stockholders of the Company (or by the Company and by the stockholders of the Company including, without limitation, an Underwritten Shelf Takedown pursuant to [Section 2.1](#)), other than a Registration Statement (or any registered offering with respect thereto) (i) filed in connection with any employee stock option or other benefit plan, (ii) pursuant to a Registration Statement on Form S-4 (or similar form that relates to a transaction subject to Rule 145 under the Securities Act or any successor rule thereto), (iii) for an offering of debt that is convertible into equity securities of the Company, (iv) for a dividend reinvestment plan or (v) a Block Trade, then the Company shall give written notice of such proposed offering to all of the Holders of Registrable Securities as soon as practicable but not less than ten (10) days before the anticipated filing date of such Registration Statement or, in the case of an Underwritten Offering pursuant to a Shelf Registration, the applicable “red herring” prospectus or prospectus supplement used for marketing such offering (or such shorter period of days (but not less than two (2) days) as may be agreed by holders of at least 25% of the outstanding Registrable Securities), which notice shall (A) describe the amount and type of securities to be included in such offering, the proposed filing date, the intended method(s) of distribution, the name of the proposed managing Underwriter or Underwriters, if any, in such offering and to the extent then known a good faith estimate of the proposed minimum offering price, and (B) offer to all of the Holders of Registrable Securities the opportunity to include in such registered offering such number of Registrable Securities as such Holders may request in writing within five (5) days (or such shorter period of days (but not less than one (1) day) as may be agreed by holders of at least 25% of the outstanding Registrable Securities) after receipt of such written notice (such registered offering, a “**Piggyback Registration**”). Subject to [Section 2.2.2](#), the Company shall, in good faith, cause such Registrable Securities to be included in such Piggyback Registration and, if applicable, shall use its commercially reasonable efforts to cause the managing Underwriter or Underwriters of such Piggyback Registration to permit the Registrable Securities requested by the Holders pursuant to this [Section 2.2.1](#) to be included therein on the same terms and conditions as any similar securities of the Company included in such registered offering and to permit the sale or other disposition of such Registrable Securities in accordance with the intended method(s) of distribution thereof. The inclusion of any Holder’s Registrable Securities in a Piggyback Registration shall be subject to such Holder agreement to enter into an underwriting agreement in customary form with the Underwriter(s) selected for such Underwritten Offering.

**2.2.2 Reduction of Piggyback Registration.** If the managing Underwriter or Underwriters in an Underwritten Offering that is to be a Piggyback Registration, in good faith, advises the Company and the Holders of Registrable Securities participating in the Piggyback Registration in writing that the dollar amount or number of shares of Class A Common Stock or other equity securities that the Company desires to sell, taken together with (i) the Registrable Securities as to which registration has been requested pursuant to Section 2.2.1, and (ii) the shares of Class A Common Stock or other equity securities, if any, of other persons or entities (other than the Holders of Registrable Securities hereunder) that the Company is obligated to register in a Registration pursuant to separate written contractual piggy-back registration rights held by such persons or entities, exceeds the Maximum Number of Securities, then:

(a) if the Registration or registered offering is undertaken for the Company's account, the Company shall include in any such Registration or registered offering (A) first, the shares of Class A Common Stock or other equity securities that the Company desires to sell, which can be sold without exceeding the Maximum Number of Securities; (B) second, to the extent that the Maximum Number of Securities has not been reached under the foregoing clause (A), the Registrable Securities of Holders exercising their rights to register their Registrable Securities pursuant to Section 2.2.1, pro rata, based on the respective number of Registrable Securities that each Holder has requested be included in such Underwritten Offering and the aggregate number of Registrable Securities that the Holders have requested to be included in such Underwritten Offering, which can be sold without exceeding the Maximum Number of Securities; and (C) third, to the extent that the Maximum Number of Securities has not been reached under the foregoing clauses (A) and (B), the shares of Class A Common Stock or other equity securities, if any, of other persons or entities that the Company is obligated to register in a Registration pursuant to separate written contractual piggy-back registration rights held by such persons or entities, which can be sold without exceeding the Maximum Number of Securities; or

(b) if the Registration or registered offering is pursuant to a demand by persons or entities other than the Holders of Registrable Securities (and not undertaken for the Company's account), then the Company shall include in any such Registration or registered offering (A) first, the shares of Class A Common Stock or other equity securities, if any, of such requesting persons or entities, other than the Holders of Registrable Securities, which can be sold without exceeding the Maximum Number of Securities, subject to Section 5.7; (B) second, to the extent that the Maximum Number of Securities has not been reached under the foregoing clause (A), the Registrable Securities of Holders exercising their rights to register their Registrable Securities pursuant to Section 2.2.1, pro rata, based on the respective number of Registrable Securities that each Holder has requested be included in such Underwritten Offering and the aggregate number of Registrable Securities that the Holders have requested to be included in such Underwritten Offering, which can be sold without exceeding the Maximum Number of Securities; (C) third, to the extent that the Maximum Number of Securities has not been reached under the foregoing clauses (A) and (B), the shares of Class A Common Stock or other equity securities that the Company desires to sell, which can be sold without exceeding the Maximum Number of Securities; and (D) fourth, to the extent that the Maximum Number of Securities has not been reached under the foregoing clauses (A), (B) and (C), the shares of Class A Common Stock or other equity securities, if any, of other persons or entities that the Company is obligated to register in a Registration pursuant to separate written contractual piggy-back registration rights held by such persons or entities, which can be sold without exceeding the Maximum Number of Securities; and



(c) if the Registration or registered offering and Underwritten Shelf Takedown is pursuant to a request by Holder(s) of Registrable Securities pursuant to Section 2.1, then the Company shall include in any such Registration or registered offering securities in the priority set forth in Section 2.1.5.

2.2.3 Piggyback Registration Withdrawal. Any Holder of Registrable Securities (other than a Demanding Holder, whose right to withdraw from an Underwritten Shelf Takedown, and related obligations, shall be governed by Section 2.1.6) shall have the right to withdraw from a Piggyback Registration for any or no reason whatsoever upon written notification to the Company and the Underwriter or Underwriters (if any) of his, her or its intention to withdraw from such Piggyback Registration prior to the effectiveness of the Registration Statement filed with the Commission with respect to such Piggyback Registration or, in the case of a Piggyback Registration pursuant to a Shelf Registration, the filing of the applicable “red herring” prospectus or prospectus supplement with respect to such Piggyback Registration used for marketing such transaction. The Company (whether on its own good faith determination or as the result of a request for withdrawal by persons or entities pursuant to separate written contractual obligations) may withdraw a Registration Statement filed with the Commission in connection with a Piggyback Registration (which, in no circumstance, shall include a Shelf or other Registration pursuant to Section 2.1) at any time prior to the effectiveness of such Registration Statement. Notwithstanding anything to the contrary in this Agreement, the Company shall be responsible for the Registration Expenses incurred in connection with the Piggyback Registration prior to its withdrawal under this Section 2.2.3.

2.2.4 Unlimited Piggyback Registration Rights. For purposes of clarity, subject to Section 2.1.6, any Piggyback Registration effected pursuant to Section 2.2 shall not be counted as a demand for an Underwritten Shelf Takedown under Section 2.1.4.

2.3 Market Stand-off. In connection with any Underwritten Offering of equity securities of the Company pursuant to this Agreement (other than a Block Trade), each participating Holder and each other Holder who, together with its affiliates, beneficially owns greater than five percent (5%) of the outstanding shares of Class A Common Stock in the aggregate, agrees that it shall not Transfer any shares of Common Stock or other equity securities of the Company (other than those included in such offering pursuant to this Agreement), without the prior written consent of the Company, during the ninety (90)-day period (or such shorter time agreed to by the managing Underwriters) beginning on the date of pricing of such offering, except as expressly permitted by such lock-up agreement or in the event the managing Underwriters otherwise agree by written consent. Each such Holder agrees to execute a customary lock-up agreement in favor of the Underwriters to such effect (in each case on substantially the same terms and conditions as all such Holders ).

## 2.4 Block Trades.

2.4.1 Notwithstanding any other provision of this Article II, but subject to Section 3.4, at any time and from time to time when an effective Shelf is on file with the Commission, if a Demanding Holder wishes to engage in an underwritten registered offering not involving a “roadshow,” i.e., an offering commonly known as a “block trade” (a “**Block Trade**”), with a total offering price reasonably expected to exceed, in the aggregate, either (x) \$25.0 million or (y) all remaining Registrable Securities held by the Demanding Holder, then such Demanding Holder shall notify the Company of its request to engage in a Block Trade and, subject to Section 3.1.8 or the waiver thereof by such Demanding Holder, the Company shall as expeditiously as possible use its commercially reasonable efforts to facilitate such Block Trade; provided that such Demanding Holder shall use commercially reasonable efforts to work with the Company and any Underwriters prior to making such request in order to facilitate preparation of the registration statement, prospectus and other offering documentation related to the Block Trade.

2.4.2 Prior to the filing of the applicable “red herring” prospectus or prospectus supplement used in connection with a Block Trade or the issuance of a press release by the applicable Demanding Holder or by the Company with respect thereto, the Demanding Holders initiating such Block Trade shall have the right to submit a Withdrawal Notice to the Company and the Underwriter or Underwriters (if any) of their intention to withdraw from such Block Trade. Notwithstanding anything to the contrary in this Agreement, the Company shall be responsible for the Registration Expenses incurred in connection with a Block Trade prior to its withdrawal under this Section 2.4.2.

2.4.3 Notwithstanding anything to the contrary in this Agreement, Section 2.2 shall not apply to a Block Trade initiated by a Demanding Holder pursuant to this Agreement.

2.4.4 The Demanding Holder in a Block Trade shall have the right to select the Underwriters for such Block Trade (which shall consist of one or more reputable nationally recognized investment banks).

2.4.5 A Holder in the aggregate may demand no more than two (2) Block Trades per year pursuant to this Section 2.4. For the avoidance of doubt, any Block Trade effected pursuant to this Section 2.4 shall not be counted as a demand for an Underwritten Shelf Takedown pursuant to Section 2.1.4.

## ARTICLE III

### COMPANY PROCEDURES

3.1 General Procedures. In connection with any Shelf and/or Shelf Takedown, the Company shall use its commercially reasonable efforts to effect such Registration to permit the sale of such Registrable Securities in accordance with the intended plan of distribution thereof, and pursuant thereto the Company shall, as expeditiously as possible:

3.1.1 prepare and file with the Commission as soon as practicable a Registration Statement with respect to such Registrable Securities and use its commercially reasonable efforts to cause such Registration Statement to become effective and remain effective until all Registrable Securities have ceased to be Registrable Securities;

3.1.2 without limiting the provisions set forth in Section 2.1.3, prepare and file with the Commission such amendments and post-effective amendments to the Registration Statement, and such supplements to the Prospectus, as may be reasonably requested by any Holder that holds at least one percent (1%) of the Registrable Securities registered on such Registration Statement or any Underwriter of Registrable Securities or as may be required by the rules, regulations or instructions applicable to the registration form used by the Company or by the Securities Act or rules and regulations thereunder to keep the Registration Statement effective until all Registrable Securities covered by such Registration Statement are sold in accordance with the intended plan of distribution set forth in such Registration Statement or supplement to the Prospectus;

3.1.3 prior to filing a Registration Statement or Prospectus, or any amendment or supplement thereto, furnish without charge to the Underwriters, if any, and the Holders of Registrable Securities included in such Registration, and such Holders' legal counsel, copies of such Registration Statement as proposed to be filed, each amendment and supplement to such Registration Statement (in each case including all exhibits thereto and documents incorporated by reference therein), the Prospectus included in such Registration Statement (including each preliminary Prospectus), any free writing prospectus (as defined in Rule 405 of the Securities Act) and such other documents as the Underwriters and the Holders of Registrable Securities included in such Registration or the legal counsel for any such Holders may request (including any comment letter from the Commission), and all such documents shall be subject to the review and reasonable comment of such counsel who shall, if requested, have a reasonable opportunity to participate in the preparation of such documents in order to facilitate the disposition of the Registrable Securities owned by such Holders;

3.1.4 prior to any public offering of Registrable Securities, use its commercially reasonable efforts to (i) register or qualify the Registrable Securities covered by the Registration Statement under such securities or "blue sky" laws of such jurisdictions in the United States as the Holders of Registrable Securities included in such Registration Statement (in light of their intended plan of distribution) may request (or provide evidence satisfactory to such Holders that the Registrable Securities are exempt from such registration or qualification) and (ii) take such action necessary to cause such Registrable Securities covered by the Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be necessary by virtue of the business and operations of the Company and do any and all other acts and things that may be necessary or advisable to enable the Holders of Registrable Securities included in such Registration Statement to consummate the disposition of such Registrable Securities in such jurisdictions; provided, however, that the Company shall not be required to qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify or take any action to which it would be subject to general service of process or taxation in any such jurisdiction where it is not then otherwise so subject;

3.1.5 cause all such Registrable Securities to be listed on each national securities exchange on which similar securities issued by the Company are then listed and, if no such securities are so listed, use commercially reasonable efforts to cause such Registrable Securities to be listed on the New York Stock Exchange or the Nasdaq Stock Market;

3.1.6 provide a transfer agent or warrant agent, as applicable, and registrar for all such Registrable Securities no later than the effective date of such Registration Statement;

3.1.7 advise each seller of such Registrable Securities, promptly after it shall receive notice or obtain knowledge thereof, of the issuance of any stop order by the Commission suspending the effectiveness of such Registration Statement or the initiation or threatening of any proceeding for such purpose and promptly use its commercially reasonable efforts to prevent the issuance of any stop order or to obtain its withdrawal if such stop order should be issued;

3.1.8 at least five (5) days prior to the filing of any Registration Statement or Prospectus or any amendment or supplement to such Registration Statement or Prospectus (or such shorter period of time as may be (a) necessary in order to comply with the Securities Act, the Exchange Act, and the rules and regulations promulgated under the Securities Act or Exchange Act, as applicable or (b) advisable in order to reduce the number of days that sales are suspended pursuant to Section 3.4), furnish a copy thereof to each seller of such Registrable Securities or its counsel (excluding any exhibits thereto and any filing made under the Exchange Act that is to be incorporated by reference therein);

3.1.9 as promptly as practicable notify the Holders in writing upon any of the following events: (A) the filing of the Registration Statement, any Prospectus and any amendment or supplement thereto, and, with respect to the Registration Statement or any post-effective amendment thereto, when the same has become effective; (B) any request by the Commission or any other U.S. or state governmental authority for amendments or supplements to the Registration Statement or any Prospectus or for additional information; (C) the receipt by the Company of any notification with respect to the suspension of the qualification of any Registrable Securities for sale under the securities or “blue sky” laws of any jurisdiction or the initiation or threat of any proceeding for such purpose; (D) if at any time the representations and warranties of the Company contained in any underwriting agreement contemplated by Section 3.1.13 below cease to be true and correct in any material respect, provided that notice shall only be required if required to be given to the underwriters pursuant to such underwriting agreement; and (E) at any time when a Prospectus relating to such Registration Statement is required to be delivered under the Securities Act, of the happening of any event as a result of which the Prospectus included in such Registration Statement, as then in effect, includes a Misstatement, and then to correct such Misstatement as set forth in Section 3.4;

3.1.10 in the event of an Underwritten Offering, (A) permit representatives of the Holders, the Underwriters or other financial institutions facilitating such Underwritten Offering, if any, and any attorney, consultant or accountant retained by such Holders or Underwriter to participate, at each such person’s or entity’s own expense, in the preparation of the Registration Statement, and cause the Company’s officers, directors and employees to supply all information reasonably requested by any such representative, Underwriter, financial institution, attorney, consultant or accountant in connection with the Registration, including to enable them to exercise their due diligence responsibility; provided, however, that such representatives, Underwriters or financial institutions agree to confidentiality arrangements in form and substance reasonably satisfactory to the Company prior to the release or disclosure of any such information and (B) cause the officers, directors and employees of the Company and its subsidiaries (and use its commercially reasonable efforts to cause its auditors) to participate in customary due diligence calls;

3.1.11 obtain a “cold comfort” letter from the Company’s independent registered public accountants in the event of an Underwritten Offering or a sale by a broker, placement agent or sales agent pursuant to such Registration (subject to such broker, placement agent or sales agent providing such certification or representation reasonably requested by the Company’s independent registered public accountants and the Company’s counsel) in customary form and covering such matters of the type customarily covered by “cold comfort” letters as the managing Underwriter may reasonably request, and reasonably satisfactory to a majority-in-interest of the participating Holders;

3.1.12 in the event of an Underwritten Offering, on the date the Registrable Securities are delivered for sale pursuant to such Registration, obtain an opinion and negative assurance letter, dated such date, of counsel representing the Company for the purposes of such Registration, addressed to the participating Holders, the broker, placement agents or sales agent, if any, and the Underwriters, if any, covering such legal matters with respect to the Registration in respect of which such opinion is being given as the participating Holders, broker, placement agent, sales agent or Underwriter may reasonably request and as are customarily included in such opinions and negative assurance letters;

3.1.13 in an Underwritten Offering, enter into an underwriting agreement in form, scope and substance as is customary in underwritten offerings and in connection therewith, (A) make representations and warranties to the Holders of such Registrable Securities and the Underwriters, if any, with respect to the business of the Company and its subsidiaries, and the Registration Statement, Prospectus and documents, if any, incorporated or deemed to be incorporated by reference therein, in each case, in form, substance and scope as are customarily made by issuers in underwritten offerings, and, if true, confirm the same if and when requested, (B) include in the underwriting agreement indemnification provisions and procedures substantially to the effect set forth in Article IV hereof with respect to the Underwriters and all parties to be indemnified pursuant to said Article except as otherwise agreed by the majority-in-interest of the participating Holders and (C) deliver such documents and certificates as are reasonably requested by a majority-in-interest of the aggregate number of Registrable Securities held by the participating Holders, their counsel and the Underwriters to evidence the continued validity of the representations and warranties made pursuant to sub-clause (A) above and to evidence compliance with any customary conditions contained in the underwriting agreement;

3.1.14 in the event of any Underwritten Offering or sale by a broker, placement agent or sales agent pursuant to such Registration, enter into and perform its obligations under an underwriting or other purchase or sales agreement, in usual and customary form, with the managing Underwriter or the broker, placement agent or sales agent of such offering or sale;

3.1.15 make available to its security holders, as soon as reasonably practicable, an earnings statement covering the period of at least twelve (12) months beginning with the first day of the Company’s first full calendar quarter after the effective date of the Registration Statement which satisfies the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder (or any successor rule then in effect);

3.1.16 with respect to an Underwritten Offering pursuant to Section 2.1.4, make available senior executives of the Company to participate in meetings with analysts or customary “road show” presentations that may be reasonably requested by the Underwriter in such Underwritten Offering;

3.1.17 cooperate with the participating Holders and the Underwriters, if any, to facilitate the timely preparation and delivery of certificates (if such securities are certificated and which shall not bear any restrictive legends unless required under applicable law) representing securities sold under any Registration Statement, and enable such securities to be in such denominations and registered in such names as such Holders or Underwriters may request and keep available and make available to the Company’s transfer agent prior to the effectiveness of such Registration Statement a supply of such certificates (if such securities are certificated);

3.1.18 file the applicable Registration Statement with FINRA within three (3) Business Days of the date such Registration Statement is filed with or submitted to the SEC, and cooperate with each participating Holder and Underwriter, if any, and their respective counsels in connection with any other filings required to be made with FINRA; and

3.1.19 otherwise, in good faith, cooperate reasonably with, and take such customary actions as may reasonably be requested by the participating Holders, consistent with the terms of this Agreement, in connection with such Registration.

Notwithstanding the foregoing, the Company shall not be required to provide any documents or information to an Underwriter, broker, sales agent or placement agent if such Underwriter, broker, sales agent or placement agent has not then been selected as an Underwriter, broker, sales agent or placement agent, as applicable, with respect to the applicable Underwritten Offering or other offering involving a registration.

3.2 Registration Expenses. The Registration Expenses of all Registrations shall be borne by the Company. It is acknowledged by the Holders that the Holders shall bear all Underwriters’ commissions and discounts, brokerage fees, Underwriter marketing costs, transfer taxes and, other than as set forth in the definition of “Registration Expenses,” all fees and expenses of any legal counsel representing the Holders.

3.3 Requirements for Participation in Registration Statement in Offerings. Notwithstanding anything in this Agreement to the contrary, if any Holder does not provide the Company with its requested Holder Information, the Company may exclude such Holder’s Registrable Securities from the applicable Registration Statement or Prospectus if the Company determines, based on the advice of counsel, that such information is necessary to effect the registration and such Holder continues thereafter to withhold such information. No person or entity may participate in any Underwritten Offering or other offering for equity securities of the Company pursuant to a Registration initiated by the Company hereunder unless such person or entity (i) agrees to sell such person’s or entity’s securities on the basis provided in any underwriting, sales, distribution or placement arrangements approved by the Company and (ii) completes and executes all customary questionnaires, powers of attorney, indemnities, lock-up agreements, underwriting or other agreements and other customary documents as may be reasonably required under the terms of such underwriting, sales, distribution or placement arrangements. The exclusion of a Holder’s Registrable Securities as a result of this Section 3.3 shall not affect the registration of the other Registrable Securities to be included in such Registration.

### 3.4 Suspension of Sales; Adverse Disclosure; Restrictions on Registration Rights.

3.4.1 Upon receipt of written notice from the Company that: (a) a Registration Statement or Prospectus contains a Misstatement; or (b) any request by the Commission for any amendment or supplement to any Registration Statement or Prospectus or for additional information or of the occurrence of an event requiring the preparation of a supplement or amendment to such Prospectus so that, as thereafter delivered to the purchasers of the securities covered by such Registration Statement or Prospectus, such Registration Statement or Prospectus will not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, each of the Holders shall forthwith discontinue disposition of Registrable Securities pursuant to such Registration Statement covering such Registrable Securities until it has received copies of a supplemented or amended Prospectus (it being understood that the Company hereby covenants to prepare and file such supplement or amendment as soon as practicable after the time of such notice) or until it is advised in writing by the Company that the use of the Prospectus may be resumed, and, if so directed by the Company, each such Holder will deliver to the Company all copies, other than permanent file copies then in such Holder's possession, of the most recent Prospectus covering such Registrable Securities at the time of receipt of such notice. In the event that a Holder exercises a demand right pursuant to Section 2.1 and the related offering is expected to, or may, occur during a quarterly earnings blackout period of the Company (such blackout periods determined in accordance with the Company's written insider trading compliance program adopted by the Board), the Company and such Holder shall act reasonably and work cooperatively in view of such quarterly earnings blackout period.

3.4.2 Subject to Section 3.4.4, if the filing, initial effectiveness or continued use of a Registration Statement in respect of any Registration at any time would (a) require the Company to make an Adverse Disclosure or (b) require the inclusion in such Registration Statement of financial statements that are unavailable to the Company for reasons beyond the Company's control after the exercise by the Company of reasonable best efforts, or (c) in the good faith judgment of the majority of the Board, be seriously detrimental to the Company and as a result it is essential to defer such filing, initial effectiveness or continued use at such time, the Company may, upon giving prompt written notice of such action to the Holders, delay the filing or initial effectiveness of, or suspend use of, such Registration Statement for the shortest period of time determined in good faith by the Company to be necessary for such purpose. In the event the Company exercises its rights under this Section 3.4.2, the Holders agree to suspend, immediately upon their receipt of the notice referred to above, their use of the Prospectus relating to any Registration in connection with any sale or offer to sell Registrable Securities until such Holder receives written notice from the Company that such sales or offers of Registrable Securities may be resumed, and in each case maintain the confidentiality of such notice and its contents.

3.4.3 (a) During the period starting with the date thirty (30) days prior to the Company's good faith estimate of the date of the filing of, and ending on a date ninety (90) days after the effective date of, a Company-initiated Registration, and provided that the Company continues to actively employ, in good faith, all reasonable efforts to maintain the effectiveness of

the applicable Shelf, the Company may, upon giving prompt written notice of such action to the Holders, delay any other registered offering pursuant to Section 2.1.4 and, (b) during the period starting with the date fifteen (15) days prior to the Company's good faith estimate of the date of the filing of, and ending on a date forty five (45) days after the effective date of, a Company-initiated Registration, and provided that the Company continues to actively employ, in good faith, all reasonable efforts to maintain the effectiveness of the applicable Shelf, the Company may, upon giving prompt written notice of such action to the Holders, delay any other registered offering pursuant to Section 2.4.

3.4.4 The right to delay or suspend any filing, initial effectiveness or continued use of a Registration Statement pursuant to Section 3.4.2 or a registered offering pursuant to Section 3.4.3 shall be exercised by the Company, in the aggregate, on not more than ninety (90) consecutive calendar days, or for more than one hundred and twenty (120) total calendar days, in each case during any twelve-month period.

3.5 Reporting Obligations. As long as any Holder shall own Registrable Securities, the Company, at all times while it shall be a reporting company under the Exchange Act, covenants to file timely (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to Sections 13(a) or 15(d) of the Exchange Act and to promptly furnish the Holders with true and complete copies of all such filings; provided that any documents publicly filed or furnished with the Commission pursuant to the Electronic Data Gathering, Analysis and Retrieval System shall be deemed to have been furnished or delivered to the Holders pursuant to this Section 3.5. The Company further covenants that it shall (i) take such further action as any Holder may reasonably request, all to the extent required from time to time to enable such Holder to sell shares of Common Stock held by such Holder without registration under the Securities Act within the limitation of the exemptions provided by Rule 144 promulgated under the Securities Act (or any successor rule then in effect) and (ii) certify to the Holders in writing that it has filed current Form 10 information with the Commission within four (4) Business Days of the Closing. Upon the request of any Holder, the Company shall deliver to such Holder a written certification of a duly authorized officer as to whether it has complied with such requirements.

## ARTICLE IV

### INDEMNIFICATION AND CONTRIBUTION

#### 4.1 Indemnification.

4.1.1 The Company agrees to indemnify, to the extent permitted by law, each Holder of Registrable Securities, its officers, directors, partners, members and agents and each person or entity who controls such Holder (within the meaning of the Securities Act), against all losses, claims, damages, liabilities and out-of-pocket expenses (including, without limitation, reasonable outside attorneys' fees and reasonable expenses of investigation) arising out of, resulting from or based upon any untrue or alleged untrue statement of material fact contained in or incorporated by reference in any Registration Statement, Prospectus or preliminary Prospectus or any amendment thereof or supplement thereto or any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, except



insofar as the same are caused by or contained in any information or affidavit so furnished in writing to the Company by such Holder expressly for use therein. The Company shall indemnify the Underwriters, their officers and directors and each person or entity who controls such Underwriters (within the meaning of the Securities Act) to the same extent as provided in the foregoing with respect to the indemnification of the Holder.

4.1.2 In connection with any Registration Statement in which a Holder of Registrable Securities is participating, such Holder shall furnish (or cause to be furnished) to the Company in writing such information and affidavits as the Company reasonably requests for use in connection with any such Registration Statement or Prospectus (the “**Holder Information**”) and, to the extent permitted by law, shall indemnify the Company, its directors, officers, partners, members and agents and each person or entity who controls the Company (within the meaning of the Securities Act) against all losses, claims, damages, liabilities and out-of-pocket expenses (including, without limitation, reasonable outside attorneys’ fees and reasonable expenses of investigation) arising out of, resulting from or based upon any untrue or alleged untrue statement of material fact contained or incorporated by reference in any Registration Statement, Prospectus or preliminary Prospectus or any amendment thereof or supplement thereto or any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, but only to the extent that such untrue statement is contained in (or not contained in, in the case of an omission) any Holder Information so furnished in writing by or on behalf of such Holder expressly for use therein; provided, however, that the obligation to indemnify shall be several, not joint and several, among such Holders of Registrable Securities, and the liability of each such Holder of Registrable Securities shall be in proportion to and limited to the net proceeds actually received by such Holder from the sale of Registrable Securities pursuant to such Registration Statement. The Holders of Registrable Securities shall indemnify the Underwriters, their officers, directors and each person or entity who controls such Underwriters (within the meaning of the Securities Act) to the same extent as provided in the foregoing with respect to indemnification of the Company.

4.1.3 Any person or entity entitled to indemnification herein shall (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification (provided that the failure to give prompt notice shall not impair any person’s or entity’s right to indemnification hereunder to the extent such failure has not materially prejudiced the indemnifying party) and (ii) unless in such indemnified party’s reasonable judgment a conflict of interest between such indemnified and indemnifying parties may exist with respect to such claim, permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party. After notice from the indemnifying party to the indemnified party of its election to assume the defense of such claim or action, the indemnifying party shall not be liable to the indemnified party under this Article IV for any legal or other expenses subsequently incurred by the indemnified party in connection with the defense thereof other than reasonable costs of investigation, unless (1) such indemnified party reasonably objects to such assumption on the grounds that there may be defenses available to it which are different from or in addition to the defenses available to such indemnifying party, (2) the indemnifying party shall have failed within a reasonable period of time to assume such defense or, having assumed such defense, has not conducted the defense of such claim actively and diligently or (3) the named parties in any such proceeding (including any impleaded parties) include both the indemnified party and the indemnifying party and representation of both parties by the same counsel would be inappropriate

due to actual or potential differing interest between them, in which case the indemnified party shall be promptly reimbursed by the indemnifying party for the expenses incurred in connection with retaining one separate legal counsel, in addition to any local counsel (for the avoidance of doubt, for all indemnified parties in connection therewith). If such defense is assumed, (A) the indemnifying party shall keep the indemnified party informed as to the status of such claim at all stages thereof (including all settlement negotiations and offers), promptly submit to such indemnified party copies of all pleadings, responsive pleadings, motions and other similar legal documents and paper received or filed in connection therewith, permit such indemnified party and their respective counsels to confer with the indemnifying party and its counsel with respect to the conduct of the defense thereof, and permit indemnified party and its counsel a reasonable opportunity to review all legal papers to be submitted prior to their submission and (B) the indemnifying party shall not be subject to any liability for any settlement made by the indemnified party without its consent (but such consent shall not be unreasonably withheld). In any action hereunder as to which the indemnifying party has assumed the defense thereof with counsel satisfactory to the indemnified party, the indemnified party shall continue to be entitled to participate in the defense thereof, with counsel of its own choice, but the indemnifying party shall not be obligated hereunder to reimburse the indemnified party for the costs thereof. No indemnifying party shall, without the prior written consent of the indemnified party, consent to the entry of any judgment or enter into any settlement which cannot be settled in all respects by the payment of money (and such money is so paid by the indemnifying party pursuant to the terms of such settlement) or which settlement includes a statement or admission of fault, culpability or failure to act on the part of such indemnified party or which settlement does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect to such claim or litigation that shall be in form and substance satisfactory to such indemnified party.

4.1.4 The indemnification provided for under this Agreement shall remain in full force and effect regardless of any investigation made by or on behalf of the indemnified party or any officer, director or controlling person or entity of such indemnified party and shall survive the transfer of securities.

4.1.5 If the indemnification provided under Section 4.1 from the indemnifying party is unavailable or insufficient to hold harmless an indemnified party in respect of any losses, claims, damages, liabilities and out-of-pocket expenses referred to herein, then the indemnifying party, in lieu of indemnifying the indemnified party, shall contribute to the amount paid or payable by the indemnified party as a result of such losses, claims, damages, liabilities and out-of-pocket expenses in such proportion as is appropriate to reflect the relative fault of the indemnifying party and the indemnified party, as well as any other relevant equitable considerations. The relative fault of the indemnifying party and indemnified party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact, was made by (or not made by, in the case of an omission), or relates to information supplied by (or not supplied by in the case of an omission), such indemnifying party or indemnified party, and the indemnifying party's and indemnified party's relative intent, knowledge, access to information and opportunity to correct or prevent such action; provided, however, that the liability of any Holder under this Section 4.1.5 shall be limited to the amount of the net proceeds actually received by such Holder in such offering giving rise to such liability. The amount paid or payable by a party as a result of the losses or other

liabilities referred to above shall be deemed to include, subject to the limitations set forth in Sections 4.1.1, 4.1.2 and 4.1.3 above, any legal or other fees, charges or out-of-pocket expenses reasonably incurred by such party in connection with any investigation or proceeding. The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 4.1.5 were determined by pro rata allocation or by any other method of allocation, which does not take account of the equitable considerations referred to in this Section 4.1.5. No person or entity guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution pursuant to this Section 4.1.5 from any person or entity who was not guilty of such fraudulent misrepresentation.

4.1.6 The obligations of the parties under this Article IV shall be in addition to any liability which any party may otherwise have to any other party.

## ARTICLE V

### MISCELLANEOUS

5.1 Notices. Any notice or communication under this Agreement must be in writing and given by (i) deposit in the United States mail, addressed to the party to be notified, postage prepaid and registered or certified with return receipt requested, (ii) delivery in person or by courier service providing evidence of delivery, or (iii) transmission by hand delivery, electronic mail or facsimile. Each notice or communication that is mailed, delivered, or transmitted in the manner described above shall be deemed sufficiently given, served, sent, and received, (i) in the case of mailed notices, on the third business day following the date on which it is mailed and, (ii) in the case of notices delivered by courier service, hand delivery, electronic mail or facsimile, at such time as it is delivered to the addressee (with the delivery receipt or the affidavit of messenger) or at such time as delivery is refused by the addressee upon presentation. Any notice or communication under this Agreement must be addressed, if to the Company, to: ProKidney Corp., 2000 Frontis Plaza Blvd, Suite 250, Winston-Salem, NC 27103, Attn: Investor Relations, email: elizabeth.goodwin@prokidney.com, with a copy, which shall not constitute notice, to Todd Girolamo, General Counsel, email: todd.girolamo@prokidney.com; and, if to any Holder, at such Holder's address, electronic mail address or facsimile number as set forth in the Company's books and records. Any party may change its address for notice at any time and from time to time by written notice to the other parties hereto, and such change of address shall become effective upon delivery of such notice as provided in this Section 5.1.

#### 5.2 Assignment; No Third Party Beneficiaries.

5.2.1 This Agreement and the rights, duties and obligations of the Company hereunder may not be assigned or delegated by the Company in whole or in part.

5.2.2 Subject to Section 5.2.4 and Section 5.2.5, this Agreement and the rights, duties and obligations of a Holder hereunder may be assigned in whole or in part to such Holder's Permitted Transferees; provided, that, with respect to the ProKidney Holders, the Investor Stockholders, the Director Holders, the Advisor Holders and the Sponsor, the rights hereunder that are personal to such Holders may not be assigned or delegated in whole or in part, except that (x) each of the ProKidney Holders shall be permitted to transfer its rights hereunder as the

ProKidney Holders to one or more affiliates or any direct or indirect partners, members or equity holders of such ProKidney Holder (it being understood that no such transfer shall reduce any rights of such ProKidney Holder or such transferees), (y) each of the Investor Stockholders shall be permitted to transfer its rights hereunder as the Investor Stockholders to one or more affiliates or any direct or indirect partners, members or equity holders of such Investor Stockholder (it being understood that no such transfer shall reduce any rights of such Investor Stockholder or such transferees) and (z) the Sponsor shall be permitted to transfer its rights hereunder as the Sponsor to one or more affiliates or any direct or indirect partners, members or equity holders of the Sponsor and any such transferee shall thereafter have all rights and obligations of the Sponsor hereunder (it being understood that no such transfer shall reduce any rights of the Sponsor or such transferees).

5.2.3 This Agreement and the provisions hereof shall be binding upon and shall inure to the benefit of each of the parties and its successors and the permitted assigns of the Holders, which shall include Permitted Transferees.

5.2.4 This Agreement shall not confer any rights or benefits on any persons or entities that are not parties hereto, other than as expressly set forth in this Agreement.

5.2.5 No assignment by any party hereto of such party's rights, duties and obligations hereunder shall be binding upon or obligate the Company unless and until the Company shall have received (i) written notice of such assignment as provided in Section 5.1 hereof and (ii) the written agreement of the assignee, in a form reasonably satisfactory to the Company, to be bound by the terms and provisions of this Agreement (which may be accomplished by an addendum or certificate of joinder to this Agreement). Any transfer or assignment made other than as provided in this Section 5.2 shall be null and void.

5.3 Counterparts. This Agreement may be executed in multiple counterparts (including facsimile or PDF counterparts), each of which shall be deemed an original, and all of which together shall constitute the same instrument, but only one of which need be produced. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to this Agreement or any document to be signed in connection with this Agreement shall be deemed to include electronic signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, and the parties hereto consent to conduct the transactions contemplated hereunder by electronic means.

5.4 Governing Law; Venue. NOTWITHSTANDING THE PLACE WHERE THIS AGREEMENT MAY BE EXECUTED BY ANY OF THE PARTIES HERETO, THE PARTIES EXPRESSLY AGREE THAT (1) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE OF NEW YORK AND (2) THE VENUE FOR ANY ACTION TAKEN WITH RESPECT TO THIS AGREEMENT SHALL BE ANY STATE OR FEDERAL COURT IN NEW YORK COUNTY IN THE STATE OF NEW YORK

**5.5 TRIAL BY JURY. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND, THEREFORE, EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.**

5.6 Amendments and Modifications. Upon the written consent of (a) the Company and (b) the Holders of a majority of the total Registrable Securities, compliance with any of the provisions, covenants and conditions set forth in this Agreement may be waived, or any of such provisions, covenants or conditions may be amended or modified; provided, however, that notwithstanding the foregoing, any amendment hereto or waiver hereof shall also require the written consent of the Sponsor so long as the Sponsor and its affiliates hold, in the aggregate, at least one percent (1%) of the outstanding shares of Class A Common Stock; provided, further, that notwithstanding the foregoing, any amendment hereto or waiver hereof shall also require the written consent of each Investor Stockholder so long as such Investor Stockholder and its respective affiliates hold, in the aggregate, at least one percent (1%) of the outstanding shares of Class A Common Stock; provided, further, that notwithstanding the foregoing, any amendment hereto or waiver hereof shall also require the written consent of each ProKidney Holder so long as such ProKidney Holder and its affiliates hold, in the aggregate, at least one percent (1%) of the outstanding shares of Class A Common Stock; and provided, further, that any amendment hereto or waiver hereof that adversely affects one Holder, solely in its capacity as a holder of the shares of capital stock of the Company, in a manner that is different from the other Holders (in such capacity) shall require the consent of the Holder so affected. No course of dealing between any Holder or the Company and any other party hereto or any failure or delay on the part of a Holder or the Company in exercising any rights or remedies under this Agreement shall operate as a waiver of any rights or remedies of any Holder or the Company. No single or partial exercise of any rights or remedies under this Agreement by a party shall operate as a waiver or preclude the exercise of any other rights or remedies hereunder or thereunder by such party. Notwithstanding anything herein to the contrary, any provision hereof may be waived by any waiving party on such party's own behalf, without the consent of any other party.

5.7 Other Registration Rights. Other than as provided in the Subscription Agreements, the Company represents and warrants that no person or entity, other than a Holder of Registrable Securities, has any right to require the Company to register any securities of the Company for sale or to include such securities of the Company in any Registration Statement filed by the Company for the sale of securities for its own account or for the account of any other person or entity. For so long as (a) the Sponsor and its affiliates hold, in the aggregate, at least one percent (1%) of the outstanding shares of Class A Common Stock, the Company hereby agrees and covenants that it will not grant rights to register any Common Stock (or securities convertible into or exchangeable for Common Stock) pursuant to the Securities Act that are more favorable, *pari passu* or senior to those granted to the Holders hereunder (such rights "**Competing Registration Rights**") without the prior written consent of the Sponsor, (b) an Investor Stockholder and its affiliates hold, in the aggregate, at least one percent (1%) of the outstanding shares of Class A Common Stock, the Company hereby agrees and covenants that it will not grant Competing Registration Rights without the prior written consent of such Investor Stockholder, and (c) a ProKidney Holder and its affiliates

hold, in the aggregate, at least one percent (1%) of the outstanding shares of Class A Common Stock, the Company hereby agrees and covenants that it will not grant Competing Registration Rights without the prior written consent of such ProKidney Holder. Further, the Company represents and warrants that this Agreement supersedes any other registration rights agreement or agreement with similar terms and conditions and in the event of a conflict between any such agreement or agreements and this Agreement, the terms of this Agreement shall prevail.

5.8 Term. This Agreement shall terminate on the earlier of (a) the tenth (10<sup>th</sup>) anniversary of the date of this Agreement and (b) with respect to any Holder, on the date that such Holder no longer holds any Registrable Securities. The provisions of Sections 3.2 and 3.5 and Articles IV and V shall survive any termination.

5.9 Holder Information. Each Holder agrees, if requested in writing, to represent to the Company the total number of Registrable Securities held by such Holder in order for the Company to make determinations hereunder.

5.10 Additional Holders; Joinder. In addition to persons or entities who may become Holders pursuant to Section 5.2, subject to the prior written consent of each of the Sponsor, each ProKidney Holder and each Investor Stockholder (in each case, so long as such Holder and its affiliates hold, in the aggregate, at least one percent (1%) of the outstanding shares of Class A Common Stock), the Company may make any person or entity who acquires Class A Common Stock or rights to acquire Class A Common Stock after the date hereof a party to this Agreement (each such person or entity, an “**Additional Holder**”) by obtaining an executed joinder to this Agreement from such Additional Holder in the form of Exhibit A attached hereto (a “**Joinder**”). Such Joinder shall specify the rights and obligations of the applicable Additional Holder under this Agreement. Upon the execution and delivery and subject to the terms of a Joinder by such Additional Holder, the Class A Common Stock then owned, or underlying any rights then owned, by such Additional Holder (the “**Additional Holder Common Stock**”) shall be Registrable Securities to the extent provided herein and therein and such Additional Holder shall be a Holder under this Agreement with respect to such Additional Holder Common Stock.

5.11 Severability. It is the desire and intent of the parties that the provisions of this Agreement be enforced to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought. Accordingly, if any particular provision of this Agreement shall be adjudicated by a court of competent jurisdiction to be invalid, prohibited or unenforceable for any reason, such provision, as to such jurisdiction, shall be ineffective, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be invalid, prohibited or unenforceable in such jurisdiction, it shall, as to such jurisdiction, be so narrowly drawn, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

5.12 Specific Performance. Each of the parties acknowledges and agrees that the other parties would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached or violated. Accordingly, to the fullest extent permitted by law, each of the parties agrees that, without posting bond or other undertaking, the other parties will be entitled to an injunction or injunctions to prevent breaches or violations of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in any action, claim or suit in addition to any other remedy to which it may be entitled, at law or in equity. Each party further agrees that, in the event of any action for specific performance in respect of such breach or violation, it will not assert that the defense that a remedy at law would be adequate.

5.13 Entire Agreement; Restatement. This Agreement constitutes the full and entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter. Upon the Closing, the Original RRA shall no longer be of any force or effect.

**[SIGNATURE PAGES FOLLOW]**

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the date first written above.

**COMPANY:**

**PROKIDNEY CORP.**

By: /s/ Timothy A. Bertram

Name: Timothy A. Bertram

Title: Chief Executive Officer and Director

*[Signature Page to Registration Rights Agreement]*



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**HOLDER:**

**SCS SPONSOR III LLC**

By: /s/ Chamath Palihapitiya

Name: Chamath Palihapitiya

Title: Chief Executive Officer

*[Signature Page to Registration Rights Agreement]*

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**HOLDER:**

**TOLERANTIA, LLC**

By: /s/ Jaime Gomez Sotomayor

Name: Jaime Gomez Sotomayor

Title: Authorized Signatory

*[Signature Page to Registration Rights Agreement]*

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**HOLDER:**

**CONTROL EMPRESARIAL DE CAPITALES, S.A. DE  
C.V.**

By: /s/ Armando Ibañez Vázquez \_\_\_\_\_

Name: Armando Ibañez Vázquez

Title: Attorney-in-fact

*[Signature Page to Registration Rights Agreement]*

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**HOLDER:**

**PROKIDNEY MANAGEMENT EQUITY LLC**

By Tolerantia, LLC, its manager

By: /s/ Jaime Gomez Sotomayor \_\_\_\_\_

Name: Jaime Gomez Sotomayor

Title: Authorized Signatory

*[Signature Page to Registration Rights Agreement]*

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**HOLDER:**

**MARC SEMIGRAN**

/s/ Marc Semigran

---

*[Signature Page to Registration Rights Agreement]*

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**HOLDER:**

**UMA SINHA**

/s/ Uma Sinha

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*[Signature Page to Registration Rights Agreement]*

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**HOLDER:**

**SUKUMAR NAGENDRAN**

/s/ Sukumar Nagendran

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*[Signature Page to Registration Rights Agreement]*

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**HOLDER:**

**DAVID SPIEGEL**

/s/ David Spiegel

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*[Signature Page to Registration Rights Agreement]*



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**HOLDER:**

**SC PIPE HOLDINGS LLC**

**By: SC MASTER HOLDINGS, LLC, as sole member**

**By: SOCIAL CAPITAL GROUP LLC, as sole member**

By: /s/ Chamath Palihapitiya

Name: Chamath Palihapitiya

Title: Chief Executive Officer

*[Signature Page to Registration Rights Agreement]*

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**HOLDER:**

**AVERILL MASTER FUND, LTD.**

By: /s/ Glenn Shepard

Name: Glenn Shepard

Title: Authorized Signatory

*[Signature Page to Registration Rights Agreement]*

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**Schedule 1**

**ProKidney Holders**

1. Tolerantia, LLC
2. Control Empresarial de Capitales, S.A. de C.V.
3. ProKidney Management Equity, LLC

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## Schedule 2

### Investor Stockholders

1. SC PIPE Holdings LLC
2. Averill Master Fund, Ltd.

Exhibit A

REGISTRATION RIGHTS AGREEMENT JOINDER

The undersigned is executing and delivering this joinder (this "Joinder") pursuant to the Amended and Restated Registration Rights Agreement, dated as of July 11, 2022 (as the same may hereafter be amended, the "Registration Rights Agreement"), by and among ProKidney Corp., a Cayman Islands exempted company (the "Company"), and the other persons or entities named as parties therein. Capitalized terms used but not otherwise defined herein shall have the meanings provided in the Registration Rights Agreement.

By executing and delivering this Joinder to the Company, and upon acceptance hereof by the Company upon the execution of a counterpart hereof, the undersigned hereby agrees to become a party to, to be bound by, and to comply with the Registration Rights Agreement as a Holder of Registrable Securities in the same manner as if the undersigned were an original signatory to the Registration Rights Agreement, and the undersigned's shares of Class A Common Stock shall be included as Registrable Securities under the Registration Rights Agreement to the extent provided therein[; provided, however, that the undersigned and its permitted assigns (if any) shall not have any rights as a Holder, and the undersigned's (and its transferees') shares of Class A Common Stock shall not be included as Registrable Securities, for purposes of the Excluded Sections.

For purposes of this Joinder, "Excluded Sections" shall mean [\_\_\_\_\_].]

Accordingly, the undersigned has executed and delivered this Joinder as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of Stockholder

\_\_\_\_\_  
Print Name of Stockholder

Its:

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Agreed and Accepted as of  
\_\_\_\_\_, 20\_\_

[•]

By: \_\_\_\_\_

Name:

Its:

**SECOND AMENDED AND RESTATED LIMITED PARTNERSHIP  
AGREEMENT FOR A LIMITED PARTNERSHIP CALLED  
PROKIDNEY LP**

THE COMMON UNITS OF PROKIDNEY LP HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”), THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION OR ANY OTHER APPLICABLE SECURITIES LAWS AND ARE BEING SOLD IN RELIANCE UPON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND SUCH LAWS. SUCH UNITS MUST BE ACQUIRED FOR INVESTMENT ONLY AND MAY NOT BE OFFERED FOR SALE, PLEDGED, HYPOTHECATED, SOLD, ASSIGNED OR TRANSFERRED AT ANY TIME EXCEPT IN COMPLIANCE WITH (I) THE SECURITIES ACT, ANY APPLICABLE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION, AND ANY OTHER APPLICABLE SECURITIES LAWS; (II) THE TERMS AND CONDITIONS OF THIS AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT; AND (III) ANY OTHER TERMS AND CONDITIONS AGREED TO IN WRITING BETWEEN THE PARTNERSHIP AND THE APPLICABLE PARTNER. THE UNITS MAY NOT BE TRANSFERRED OF RECORD EXCEPT IN COMPLIANCE WITH SUCH LAWS, THIS AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT, AND ANY OTHER TERMS AND CONDITIONS AGREED TO IN WRITING BY THE PARTNERSHIP AND THE APPLICABLE PARTNER. THEREFORE, PARTNERS AND OTHER TRANSFEREES OF SUCH UNITS WILL BE REQUIRED TO BEAR THE RISK OF THEIR INVESTMENT OR ACQUISITION FOR AN INDEFINITE PERIOD OF TIME.

**THIS SECOND AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT** (this “**Agreement**”) is made and entered into as of 11 July 2022 (the “**Effective Date**”) by and among those persons whose names are stated in the column headed ‘*Names of Limited Partners*’ in Part 1 of Schedule 1, and together with such other persons admitted, from time to time, as limited partners of the Partnership in accordance with the provisions of the Act and this Agreement, the “**Limited Partners**”), and ProKidney Corp. GP Limited (the “**General Partner**”) and ProKidney GP Limited (solely for the purposes of approving the Post-Recapitalization Unit Issuance (if any) and retiring as a general partner of the Partnership).

## RECITALS

**WHEREAS**, a limited partnership called ProKidney LP (the “**Partnership**”) was formed under the Act with registered number L.P. No. LP3324 pursuant to a limited partnership agreement effective as of 5 August 2021 (the “**Original Agreement**”).

**WHEREAS**, on 17 January 2022, the Original Agreement was amended and restated in its entirety on the terms of a certain First Amended and Restated Limited Partnership Agreement dated 17 January 2022 (the “**Existing Partnership Agreement**”).

**WHEREAS**, immediately following the effectiveness of this Agreement, in accordance with the Business Combination Agreement, dated as of 18 January 2022 (the “**Business Combination Agreement**”), by and among Social Capital Suvretta Holdings Corp. III (“**PubCo**”) and the Partnership, (i) the Partnership shall issue Common Units to certain of its Limited Partners as a Post-Recapitalization Unit Issuance, (ii) the Partnership shall issue Common Units to PubCo in exchange for a contribution by PubCo of a combination of Class B Common Shares, Acquiror Class B PMEL RSRs (as defined in the Business Combination Agreement) and cash, (iii) ProKidney GP Limited shall resign as the general partner of the Partnership and ProKidney Corp. GP Limited shall be admitted as the General Partner in substitution for ProKidney GP Limited, and (iv) the Partnership shall distribute such Class B Common Shares and Acquiror Class B PMEL RSRs to the Limited Partners (other than PubCo) (collectively, the “**Business Combination**”).

**WHEREAS**, in accordance with the Business Combination, each of the Units (as each is defined in the Existing Partnership Agreement) of a Partner outstanding prior to the effectiveness of this Agreement shall be replaced with the number of Common Units set forth opposite such Partner’s name on Schedule I hereto.

**WHEREAS**, the Partners have agreed to continue the Partnership and to amend and restate the Existing Partnership Agreement in its entirety on the terms of this Agreement with effect from the Effective Date, and PubCo, by its execution and delivery of this Agreement, is hereby admitted to the Partnership as a Limited Partner and shall have the rights and obligations as provided in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Existing Partnership Agreement is hereby amended and restated in its entirety on the terms of this Agreement (including to reflect the admission of PubCo as a new Limited Partner into the Partnership) (but without prejudice to any antecedent breach), such that, subject to the provisions of the Act, all matters between the Partners relating to the Partnership shall, with effect from the Effective Date, be governed by the terms of this Agreement, as follows:

**SECTION 1  
DEFINITIONS**

1.1 **Definitions** As used herein, the following terms shall have the following meanings:

“**5 Day VWAP**” means arithmetic average of the VWAP for an equivalent amount of Class A Common Shares each of the five (5) consecutive Trading Days ending on the Trading Day immediately prior to a requested subscription or redemption date described in Section 7.4.10.

“**Act**” means the Limited Partnerships Act 1907 and, as applicable, the Partnership Act 1890, each as amended and in effect at such time.

“**Acting in Concert**” has the meaning set out in the Takeover Panel Act 1997 and as regards a takeover, two or more persons are deemed to be acting in concert if, under an agreement or understanding (either formal or informal) between them, they actively cooperate in the acquisition of securities in a company.

“**Adjusted Capital Account Balance**” means, with respect to each Partner, the balance in such Partner’s Capital Account adjusted (i) by taking into account the adjustments, allocations and distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6); and (ii) by adding to such balance such Partner’s share of Partnership Minimum Gain and Partner Nonrecourse Debt Minimum Gain, determined pursuant to Treasury Regulations Sections 1.704-2(g) and 1.704-2(i)(5), and any amounts such Partner is obligated to restore pursuant to any provision of this Agreement or by applicable Law. The foregoing definition of Adjusted Capital Account Balance is intended to comply with the provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

“**Advance**” means such part of the Capital Contribution of a Partner as is in the form of an interest-free loan which each Partner shall, subject to the terms of this Agreement, make to the Partnership from time to time, which, as of the date of this Agreement, shall be recorded by the General Partner opposite such Partner’s name in Part 2 of Schedule 1 and shall thereafter be updated in the records of the Partnership on an ongoing basis by the General Partner.

“**Affiliate**” means, with respect to a specified Person, any other Person that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such specified Person.

“**Agreement**” means this Agreement, as executed and as it may be amended, modified, supplemented or restated from time to time, as provided herein.

“**Applicable Law**” means all applicable provisions of (a) constitutions, treaties, statutes, laws (including the common law), rules, regulations, decrees, ordinances, codes, proclamations, declarations or orders of any governmental authority; (b) any consents or approvals of any governmental authority; and (c) any orders, decisions, advisory or interpretative opinions, injunctions, judgments, awards, decrees of, or agreements with, any governmental authority.

“**Assumed Tax Rate**” means the highest effective marginal combined statutory U.S. federal, state and local income tax rate (including the tax imposed under Section 1411 of the Code on net investment income) for a taxable year prescribed for an individual or corporate resident in New York, New York (whichever results in the application of the highest state and local tax rate for a given type of income), and taking into account (a) the limitations imposed on the deductibility of expenses and other items, (b) the character (e.g., long-term or short-term capital



gain or ordinary or exempt income) of the applicable income, and (c) the deductibility of state and local income taxes, to the extent applicable (and with any dollar limitation on state and local income tax deductibility assumed to be exceeded), but not taking into account any deduction under Section 199A of the Code or any similar state or local Law, as determined in good faith by the General Partner. For the avoidance of doubt, the Assumed Tax Rate shall be the same for all Partners.

“**Available Cash**” means, as of a particular date, the amount of cash on hand which the General Partner, in its reasonable discretion, deems available for Distribution to the Partners, taking into account all debts, liabilities and obligations of the Partnership then due and amounts that the General Partner, in its reasonable discretion, deems necessary to expend or retain for working capital or to place into reserves for customary and usual claims with respect to the Partnership’s operations.

“**Business**” has the meaning set forth in Section 2.8.

“**Business Combination**” has the meaning set forth in the recitals of this Agreement.

“**Business Combination Agreement**” has the meaning set forth in the recitals of this Agreement.

“**Business Day**” means a day on which commercial banks are open for business in the city of New York, New York, United States of America and in Ireland and the Cayman Islands.

“**Capital Account**” means the separate capital account maintained for each Partner in accordance with Section 7.2 hereof.

“**Capital Contribution**” means, with respect to any Partner, the aggregate amount of the money and the initial Carrying Value of any property (other than money), net of any liabilities assumed by the Partnership upon contribution or to which such property is subject, contributed by a Partner to the Partnership (by way of Equity Contribution or Advance) for the issuance of Units. Any reference to the Capital Contribution of a Partner will include any Capital Contributions made by a predecessor holder of such Partner’s Units to the extent that such Capital Contribution was made in respect of Units Transferred to such Partner. As of the Effective Time, each Partner shall be deemed to have made Capital Contributions equal to the Closing Date Capital Account Balance of such Partner set forth next to such Partner’s name on Schedule I hereto.

“**Carrying Value**” means, with respect to any Partnership asset, the asset’s adjusted basis for U.S. federal income tax purposes, except that the initial carrying value of assets contributed to the Partnership shall be their respective gross Fair Market Values on the date of contribution as determined by the General Partner, in its reasonable discretion, and the Carrying Values of all Partnership assets shall be adjusted to equal their respective Fair Market Values, in accordance with the rules set forth in Treasury Regulation Section 1.704-1(b)(2)(iv)(f), except as otherwise provided herein, as of: (a) the date of the acquisition of any additional Units of the Partnership by any new or existing Partner in exchange for more than a *de minimis* Capital Contribution; (b) the date of the Distribution of more than a *de minimis* amount of Partnership assets to a Partner as consideration for an interest in the Partnership; (c) the liquidation of the Partnership within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g); (d) in connection with the grant of an interest in the Partnership (other than a *de minimis* interest) as consideration for the provision of services to or for the benefit of the Partnership by an existing Partner acting in a

partner capacity, or by a new Partner acting in a partner capacity in anticipation of being a Partner, (e) the acquisition of an interest in the Partnership upon the exercise of a non-compensatory option in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(s); (f) the Effective Date in connection with the closing of the transactions contemplated by the Business Combination Agreement, (g) the conversion of any Restricted Common Units into Common Units upon the occurrence of a Vesting Event, if any, in accordance with principles similar to those set forth in Treasury Regulations Section 1.704-1(b)(2)(iv)(s); or (h) any other date specified in the Treasury Regulations; provided, however, that adjustments pursuant to clauses (a), (b), (d) and (g) above shall be made only if such adjustments are deemed necessary or appropriate by the General Partner, in its reasonable discretion, to reflect the relative economic interests of the Partners; and provided, further, if any non-compensatory option or Restricted Common Unit is outstanding upon the occurrence of an event described in this sentence (other than, if applicable, the non-compensatory options being exercised or the Restricted Common Units being converted that give rise to the occurrence of such event), Carrying Values shall be adjusted in accordance with Treasury Regulations Sections 1.704-1(b)(2)(iv)(f)(1) and 1.704-1(b)(2)(iv)(h)(2) (or, in the case of outstanding Restricted Common Units, in accordance with principles similar to those set forth in such Sections). The Carrying Value of any Partnership asset distributed to any Partner shall be adjusted immediately before such Distribution to equal its Fair Market Value. In the case of any asset that has a Carrying Value that differs from its adjusted tax basis, Carrying Value shall be adjusted by the amount of depreciation calculated for purposes of the definition of “Profits” and “Losses” rather than the amount of depreciation determined for U.S. federal income tax purposes, and depreciation shall be calculated by reference to Carrying Value rather than tax basis once Carrying Value differs from tax basis. The Carrying Value of Partnership assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m); provided, however, that Carrying Values shall not be adjusted pursuant to this sentence to the extent that the General Partner reasonably determines that an adjustment pursuant to clauses (a) through (g) of the first sentence of this definition is necessary or appropriate in connection with the transaction that would otherwise result in an adjustment pursuant to this sentence. For clarity purposes, the applicable law for Mexican tax purposes shall be the Mexican income tax law.

“**Change of Control**” has the meaning given to such term in the Tax Receivable Agreement; provided that, for the avoidance of doubt, any event that constitutes both a PubCo Offer and a Change of Control of PubCo shall be considered a PubCo Offer for purposes of this Agreement.

“**Class**” means the classes of Units into which the interests in the Partnership may be classified or divided from time to time by the General Partner pursuant to the provisions of this Agreement. As of the date of this Agreement, the only Class consists of the Common Units, which includes the Restricted Common Units. Subclasses within a Class shall not be separate Classes for purposes of this Agreement. For all purposes hereunder and under the Act, only such Classes expressly established under this Agreement, including by the General Partner in accordance with this Agreement, shall be deemed to be a class of interests in the Partnership.

“**Class A Common Shares**” means the Class A Ordinary Shares of PubCo, par value \$0.0001 per share.

“**Class B Common Shares**” means the Class B Ordinary Shares of PubCo, par value \$0.0001 per share.

“**Closing**” means the closing of the Business Combination pursuant to the Business Combination Agreement.

“**Closing Company Unitholder**” has the meaning ascribed to such term in the Business Combination Agreement.

“**Code**” means the U.S. Internal Revenue Code of 1986, as amended.

“**Common Percentage Interest**” means, with respect to any Partner, the quotient obtained by dividing the aggregate number of Common Units then owned by such Partner by the aggregate number of Common Units then owned by all Partners.

“**Common Units**” means the Units of interest in the Partnership designated as the “Common Units” herein and having the rights pertaining thereto as are set forth in this Agreement, but shall exclude any Restricted Common Units prior to their conversion into Common Units upon the occurrence of a Vesting Event, if any.

“**Competitively Sensitive Information**” means, as it relates to any Partner, (i) information that contains details regarding the activities of the Partnership and its Affiliates which are competitive with the business of, or present a conflict of interest with, such Partner and/or its Affiliates, (ii) cost, pricing, vendor and supplier terms and information (including margin and profitability) regarding the products and services that the Partnership provides or may provide a Partner and/or its Affiliates pursuant to the Partnership’s commercial relationship with such Partner and/or its Affiliates or (iii) details, discussions or the existence of (or offers, proposals or inquiries for) any agreements with, business relationships with or work performed for, specific customers and other business partners who could be competitors of, or present a conflict of interest with, such Partner and/or its Affiliates, in each case as determined by the General Partner; provided that, this definition shall exclude any information filed with the U.S. Securities and Exchange Commission (the “**Commission**”) or otherwise made publicly available.

“**Connected**” means, in relation to any Person, any other person who is (i) connected for the purposes of Section 10 of the Taxes Consolidation Act 1997; (ii) who together with the first main person is Acting in Concert; and / or (iii) an Affiliate.

“**Continuing Partners**” means the Limited Partners of the Partnership as of immediately prior to the Closing (as defined in the Business Combination Agreement) of the Business Combination; provided, however, that any PMEL Post-Combination Unitholder, who is or which is admitted as a Limited Partner at Closing, shall also be treated as a Continuing Partner for the purposes of this definition.

“**Continuing Partner Representative**” means Pablo Legorreta or such other Person as may be appointed from time to time by the Requisite Continuing Partners.

“**Control**” (including the terms “Controlled by” and “under common Control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, as trustee or executor, by contract or otherwise, including the ownership, directly or indirectly, of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such Person.

“**Conversion Date**” means, with respect to any Restricted Common Unit, the date on which a Vesting Event occurs for such Restricted Common Unit or such later date determined pursuant to Section 9.6.

“**Covered Transaction**” means any liquidation, dissolution or winding up of the Partnership (whether occurring through one transaction or a series of related transactions, and whether voluntary or involuntary) and any other sale, redemption or Transfer of Units.

“**Distribution**” means the transfer of any money or other property to a Partner in respect of its Units or other Equity Interests in the Partnership.

“**Effective Date**” has the meaning set forth in the Preamble.

“**Encumbrance**” means any mortgage, hypothecation, claim, lien, encumbrance, conditional sales or other title retention agreement, right of first refusal, preemptive right, pledge, option, charge, security interest or other similar interest, easement, judgment or imperfection of title of any nature whatsoever, other than encumbrances arising under applicable securities Laws.

“**Equity Contribution**” means such part of the Capital Contribution of a Partner as takes the form of amounts contributed to the capital of the Partnership from time to time by such Partner which, as of the date of this Agreement, shall be recorded by the General Partner opposite such Partner’s name in Schedule 1 and shall thereafter be updated in the records of the Partnership on an ongoing basis by the General Partner.

“**Equity Interests**” means (a) capital stock, membership interests, shares, partnership interests, other equity interests, rights to profits or revenue and any other similar interest in any corporation, partnership, limited liability company or other business entity, (b) any security or other interest convertible into or exchangeable or exercisable for any of the foregoing, whether at the time of issuance or upon the passage of time or the occurrence of some future event and (c) any warrant, option or other right (contingent or otherwise) to acquire any of the foregoing.

“**ERISA**” means The Employee Retirement Income Security Act of 1974 of the United States of America, as amended.

“**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“**Exchange Agreement**” means the Exchange Agreement dated as of or about the date hereof by and among the Partnership, PubCo, the other Partners of the Partnership from time to time party thereto, and the other parties thereto, as amended from time to time.

“**Exchange Transaction**” means an exchange of Common Units and Class B Common Shares for Class A Common Shares of PubCo pursuant to, and in accordance with, the Exchange Agreement (including pursuant to a Direct Exchange (as defined in the Exchange Agreement)).

“**Existing Partnership Agreement**” has the meaning set forth in the recitals of this Agreement.

“**Family Group**” means, with respect to a Person who is an individual, (a) such Person’s spouse and direct descendants (whether natural or adopted) (collectively, for purposes of this definition, “relatives”), and (b) any trust, the trustee of which is such Person and which at all times is and remains solely for the benefit of such Person and/or such Person’s relatives.

“**Fiscal Year**” means, unless otherwise determined by the General Partner in its sole discretion in accordance with Section 14.12, any twelve-month period commencing on January 1 and ending on December 31.

“**GAAP**” means accounting principles generally accepted in the United States of America as in effect from time to time.

“**General Partner**” has the meaning set forth in the Preamble.

“**Income Amount**” has the meaning set forth in Section 6.1.4(a).

“**Indemnitee**” means (a) each director and Officer of the General Partner, (b) any Person who is or was a Partnership Representative, (c) any Person that is required to be indemnified by PubCo as an “indemnitee” in accordance with the memorandum and articles of PubCo as in effect from time to time, (d) any Person or any additional or substitute Person who is or was serving, in each case of the following, at the request of the Partnership as an officer, director, employee, partner, agent, fiduciary or trustee of another Person; provided that, a Person shall not be an Indemnitee by reason of providing, on a fee-for-services basis, trustee, fiduciary or custodial services, (e) any other Person the General Partner in its sole discretion designates as an “Indemnitee” for purposes of this Agreement, (f) any former officer or director of ProKidney GP Limited or the Partnership pursuant to Section 6.7 of the Business Combination Agreement and (g) any heir, executor or administrator with respect to Persons named in clauses (a) through (f).

“**IRS**” means the U.S. Internal Revenue Service.

“**Law**” means any statute, law, ordinance, regulation, rule, code, executive order, injunction, judgment, decree or other order issued or promulgated by any national, supranational, state, federal, provincial, local or municipal government or any administrative or regulatory body with authority therefrom with jurisdiction over the Partnership or any Partner, as the case may be.

“**Limited Partner**” has the meaning set forth in the Preamble.

“**Liquidator**” has the meaning set forth in Section 11.4.1.

“**Liquidity Event**” means, whether occurring through one transaction or a series of related transactions, any liquidation, dissolution or winding up, voluntary or involuntary, of the Partnership.

“**Lock-Up Agreement**” means the Lock-Up Agreement dated as of or about the date hereof by and among PubCo, the Partnership, certain Partners of the Partnership and the other parties thereto, as amended from time to time.

“**Lock-Up Period**” has the meaning set forth in the Lock-Up Agreement.

“**Mandatory Exchange**” has the meaning set forth in Section 10.2.

“**Nonrecourse Deductions**” has the meaning set forth in Treasury Regulations Section 1.704-2(b)(1). The amount of Nonrecourse Deductions of the Partnership for a Fiscal Year equals the net increase, if any, in the amount of Partnership Minimum Gain of the Partnership during that Fiscal Year, determined according to the provisions of Treasury Regulations Section 1.704-2(c).

“**Officer**” means each Person designated as an officer of the Partnership by the General Partner pursuant to and in accordance with the provisions of Section 4.1, subject to any resolutions of the General Partner appointing such Person as an officer of the General Partner or relating to such appointment.

“**Original Agreement**” has the meaning set forth in the Recitals.

“**Participating Unit**” means, with respect to any Distribution (or other allocation of proceeds) pursuant to Section 6.1 or Section 6.2, any outstanding Unit, but shall exclude any Restricted Common Units prior to their conversion into Common Units upon the occurrence of a Vesting Event, if any.

“**Partner**” means (a) the persons listed in Part 2 of Schedule 1 (including the General Partner); and (b) each Person who is hereafter admitted as a Partner in accordance with the terms of this Agreement and the Act.

“**Partner Nonrecourse Debt Minimum Gain**” means an amount with respect to each partner nonrecourse debt (as defined in Treasury Regulations Section 1.704-2(b)(4)) equal to the Partnership Minimum Gain that would result if such partner nonrecourse debt were treated as a nonrecourse liability (as defined in Treasury Regulations Section 1.704-2(b)(3)) determined in accordance with Treasury Regulations Section 1.704-2(i)(3).

“**Partner Nonrecourse Deduction**” has the meaning ascribed to the term “partner nonrecourse deductions” set forth in Treasury Regulations Section 1.704-2(i)(2).

“**Partnership**” has the meaning set forth in the Recitals.

“**Partnership Audit Provisions**” means Code Sections 6221 through 6241, as in effect for taxable years of the Partnership together with any subsequent amendments thereto, Treasury Regulations promulgated thereunder, and published administrative interpretations thereof, and any comparable provisions of state, local or non-U.S. tax Law.

“**Partnership Minimum Gain**” has the meaning ascribed to the term “partnership minimum gain” set forth in Treasury Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

“**Partnership Representative**” means any Person acting as the “partnership representative” pursuant to Section 7.7.

“**Partner’s Required Tax Distribution**” has the meaning set forth in Section 6.1.4.

“**Permitted Transferee**” means any transferee in an Exempt Transfer.

“**Person**” means any individual, estate, corporation, partnership, limited partnership, limited liability company, limited company, joint venture, trust, unincorporated or governmental organization or any agency or political subdivision thereof.

“**PMEL**” means ProKidney Management Equity LLC.

“**PMEL Award Agreement Recipients**” means the directors, officers, consultants, developers, contractors and employees of the Partnership, its former general partner or any Subsidiary of the Partnership, or any other Person who received PMEL Interests pursuant to the PMEL Award Agreements.

“**PMEL Award Agreements**” means award agreements which were entered into between PMEL and the PMEL Award Agreement Recipients pursuant to which PMEL issued PMEL Interests to the PMEL Award Agreement Recipients, subject to certain terms, including as with respect to vesting and forfeiture, as contained therein.

“**PMEL Interests**” means the Class B Profits Units in PMEL granted to the PMEL Award Recipients pursuant to the PMEL Award Agreements.

“**PMEL RCU Vesting Event**” means, with respect to any PMEL RCUs, the date on which a portion of PMEL RCUs would vest under the terms of the corresponding PMEL Award Agreement. With respect to any PMEL RCUs, the “corresponding PMEL Award Agreement” shall mean the PMEL Award Agreement pursuant to which the applicable PMEL Award Recipient received PMEL Interests, which PMEL Interests, by virtue of the transactions contemplated by the Business Combination Agreement, became PMEL RCUs held by a PMEL Post-Combination Unitholder hereunder.

“**PMEL RCUs**” means those Restricted Common Units issued to a PMEL Post-Combination Unitholder pursuant to the transactions contemplated by the Business Combination Agreement in respect of PMEL Interests of a PMEL Award Agreement Recipient that had not vested on the Effective Date and which Restricted Common Units are restricted subject to vesting and will vest upon the occurrence of each PMEL RCU Vesting Event, with the rights and privileges as set forth in this Agreement.

“**PMEL Post-Combination Unitholder**” has the meaning ascribed to such term in the Business Combination Agreement.

“**Post-Recapitalization Unit Issuance**” has the meaning set forth in the Business Combination Agreement.

“**Primary Indemnification**” has the meaning set forth in Section 12.2.1.

“**Proceeding**” has the meaning set forth in Section 12.2.1.

“**Profits**” and “**Losses**” means, for each Fiscal Year or other period, the taxable income or loss of the Partnership, or particular items thereof, determined in accordance with the accounting method used by the Partnership for U.S. federal income tax purposes with the following adjustments: (a) all items of income, gain, loss or deduction allocated pursuant to Section 7.4 shall not be taken into account in computing such taxable income or loss (but the amounts of items to be specially allocated pursuant to Section 7.4 shall be determined by applying rules analogous to those set forth in the remainder of this definition of “Profits” and “Losses”); (b) any income of the Partnership that is exempt from U.S. federal income taxation and not otherwise taken into account in computing Profits and Losses shall be added to such taxable income or loss; (c) if the Carrying Value of any asset differs from its adjusted tax basis for U.S. federal income tax purposes, any gain or loss resulting from a disposition of such asset shall be calculated with reference to such Carrying Value; (d) upon an adjustment to the Carrying Value (other than an adjustment in respect of depreciation) of any asset, pursuant to the definition of Carrying Value, the amount of the adjustment shall be included as gain or loss in computing such taxable income or loss; (e) if the Carrying Value of any asset differs from its adjusted tax basis for U.S. federal income tax purposes, the amount of depreciation, amortization or cost recovery deductions with respect to such asset for purposes of determining Profits and Losses, if any, shall be an amount which bears the same ratio to such Carrying Value as the U.S. federal

income tax depreciation, amortization or other cost recovery deductions bears to such adjusted tax basis (provided that, if the U.S. federal income tax depreciation, amortization or other cost recovery deduction is zero, the General Partner may use any reasonable method for purposes of determining depreciation, amortization or other cost recovery deductions in calculating Profits and Losses); (f) to the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) is required pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a Distribution other than in liquidation of a Partner's interest in the Partnership, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing such taxable income or loss and (g) except for items in (a) above, any expenditures of the Partnership not deductible in computing taxable income or loss, not properly capitalizable and not otherwise taken into account in computing Profits and Losses pursuant to this definition shall be treated as deductible items.

“**PubCo**” has the meaning set forth in the Recitals.

“**PubCo Board**” means the board of directors of PubCo.

“**PubCo Offer**” has the meaning set forth in Section 10.2.

“**Qualified Transaction**” shall mean a Change of Control.

“**Requisite Continuing Partners**” means, as of the time of determination, the Partners that hold a majority of the Units that are collectively held by the Continuing Partners (other than PMEL) immediately prior to the Closing (as defined in the Business Combination Agreement).

“**Restricted Common Unit**” means Units which are restricted and subject to vesting, and with the rights and privileges as set forth in this Agreement (including the Series 1 RCUs, the Series 2 RCUs, the Series 3 RCUs and the PMEL RCUs (which PMEL RCUs incorporate by reference the terms of the corresponding PMEL Award Agreements), and the General Partner shall maintain copies of the terms of such arrangements in its books and records.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“**Series 1 RCU**” means a Restricted Common Unit which is restricted subject to vesting and will vest upon the occurrence of a Series 1 Vesting Event, with the rights and privileges as set forth in this Agreement.

“**Series 2 RCU**” means a Restricted Common Unit which is restricted subject to vesting and will vest upon the occurrence of a Series 2 Vesting Event, with the rights and privileges as set forth in this Agreement.

“**Series 3 RCU**” means a Restricted Common Unit which is restricted subject to vesting and will vest upon the occurrence of a Series 3 Vesting Event, with the rights and privileges as set forth in this Agreement.

“**Series 1 Vesting Event**” means the occurrence or deemed occurrence of Triggering Event I (as defined in the Business Combination Agreement) in accordance with the Business Combination Agreement.



“**Series 2 Vesting Event**” means the occurrence or deemed occurrence of Triggering Event II (as defined in the Business Combination Agreement) in accordance with the Business Combination Agreement.

“**Series 3 Vesting Event**” means the occurrence or deemed occurrence of Triggering Event III (as defined in the Business Combination Agreement) in accordance with the Business Combination Agreement.

“**Similar Law**” means any law or regulation that could cause the underlying assets of the Partnership to be treated as assets of the Partner by virtue of its interest in the Partnership and thereby subject the Partnership and PubCo (or other persons responsible for the investment and operation of the Partnership’s assets) to laws or regulations that are similar to the fiduciary responsibility or prohibited transaction provisions contained in Title I of ERISA or Section 4975 of the Code.

“**Subsidiary**” means, with respect to any Person, any corporation, limited liability company, partnership, association or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity (other than a corporation), a majority of shares, membership interests, partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by any Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control any managing director or general partner of such limited liability company, partnership, association or other business entity. For purposes hereof, references to a “Subsidiary” of the Partnership shall be given effect only at such times that the Partnership has one or more Subsidiaries, and, unless otherwise indicated, the term “Subsidiary” refers to a Subsidiary of the Partnership.

“**Tax Advances**” has the meaning set forth in Section 7.6.

“**Tax Distributions**” has the meaning set forth in Section 6.1.4(b).

“**Tax Estimation Period**” shall mean each period from January 1 through March 31, from April 1 through May 31, from June 1 through August 31, and from September 1 through December 31 of each taxable year.

“**Tax Receivable Agreement**” means the Tax Receivable Agreement dated as of or about the date hereof among the Partnership, PubCo and the other parties from time to time thereto, as amended from time to time.

“**Trading Day**” has the meaning provided in the Exchange Agreement.

“**Transfer**” means, in respect of any Unit, property or other asset, any sale, assignment, transfer, distribution, exchange, mortgage, pledge, hypothecation or other disposition thereof, whether voluntarily or by operation of Law, directly or indirectly, in whole or in part, including the exchange of any Unit for any other security or the entry into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any Unit, whether any such transaction is to be settled by delivery of such securities, in cash or otherwise. The term “Transferred” shall have a meaning correlative to the foregoing.

“**Transferee**” means any Person that is a permitted transferee of a Partner’s interest in the Partnership, or part thereof.

“**Treasury Regulations**” means the final, temporary and proposed regulations under the Code promulgated from time to time (including corresponding provisions and succeeding provisions) as in effect for the relevant taxable period.

“**Unit**” means a single unit of account for the purposes of (a) calculating the shares of the Partners in the profits of the Partnership, (b) calculating the voting rights of the Partners, and (c) ascertaining the respective rights, as between the Partners, in any other matters in which such term is used in this Agreement, and a Unit shall constitute an interest in the Partnership as provided in this Agreement and under the Act, entitling the holders thereof to the relative rights, title and interests in the profits, losses, deductions and credits of the Partnership at any particular time as set forth in this Agreement, and any and all other benefits to which a holder thereof may be entitled as a Partner as provided in this Agreement, together with the obligations of such Partner to comply with all terms and provisions of this Agreement. As at the Effective Date, the term “Units” means the Common Units, which includes the Restricted Common Units. The term “Units” shall also include any other Class of Units that is established after the Effective Date in accordance with this Agreement. For the avoidance of doubt, only Partners may hold Units.

“**Vesting Event**” means (a) with respect to each Series 1 RCU, a Series 1 Vesting Event, (b) with respect to each Series 2 RCU, a Series 2 Vesting Event, (c) with respect to each Series 3 RCU, a Series 3 Vesting Event, and (d) with respect to each PMEL RCU, a PMEL RCU Vesting Event.

“**VWAP**” has the meaning provided in the Exchange Agreement.

1.2 In this Agreement and the Schedules, unless the context otherwise requires:

1.2.1 A reference to:

- (a) any party includes its personal representatives, successors in title and permitted assigns;
- (b) a “company” shall be construed so as to include any company, corporation or body corporate, wherever and however incorporated or established;
- (c) writing or similar expressions includes, unless otherwise specified, transmission by facsimile and email;
- (d) a “month” shall mean a calendar month; and
- (e) any other document referred to in this Agreement is a reference to that document as amended, varied, novated or supplemented at any time.

- 1.2.2 A reference to a statute or statutory provision shall be construed as a reference to the laws of Ireland unless otherwise specified and includes:
- (a) any subordinate legislation made under it including all regulations, by-laws, orders and codes made thereunder;
  - (b) any repealed statute or statutory provision which it re-enacts (with or without modification); and
  - (c) any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it.
- 1.3 The rule known as the ejusdem generis rule shall not apply and accordingly general words introduced by the word “other”, “including”, “include” and “in particular” or any similar expression shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things and shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.4 Notwithstanding anything to the contrary herein, the only amounts contributed as contributions of capital by the Partners, or any of them, for the purposes of the Act are their Equity Contributions and not the amount of any Advance.

## SECTION 2 FORMATION, TERM, PURPOSE

- 2.1 **Formation** The Partnership has been formed as a limited partnership pursuant to the Act. This Agreement shall constitute the partnership agreement of the Partnership. The Partnership shall have no legal personality of its own. The rights, powers, duties, obligations and liabilities of the Partners shall be determined pursuant to the Act and this Agreement. To the extent that the rights, powers, duties, obligations and liabilities of any Partner are different by reason of any provision of this Agreement than they would be under the Act in the absence of such provision, this Agreement shall, to the extent permitted by the Act, control.
- 2.2 **Name** The name of the Partnership is ProKidney LP or such other name as shall from time to time be substituted by the General Partner and registered by the General Partner in accordance with the Act. The business of the Partnership shall be carried on under the partnership name. All proprietary and other rights in the partnership name are vested exclusively in the Partnership.
- 2.3 **Term** The Partnership shall continue in existence for as long as there are at least two Partners, except that the Partnership may be dissolved pursuant to this Agreement.
- 2.4 **Registered principal place of business** The registered principal place of business of the Partnership is at 70 Sir John Rogerson’s Quay, Dublin 2, Ireland or such other place, in accordance with the Act, as may be decided by the General Partner from time to time. The General Partner shall make all necessary filings in connection with any such change to the registered principal place of business of the Partnership.
- 2.5 **Liability** The Partnership shall be a limited partnership within the meaning of the Act. If the Partnership is unable to pay its debts, liabilities or obligations, the liability of each Limited Partner to meet any shortfall will be limited to the amount of its Equity Contribution. The General Partner will be liable for all of the Partnership’s debts, liabilities and obligations which the Partnership is unable to pay in excess of the amounts for which the Limited Partners are liable.

- 2.6 **Classification for Tax Purposes** The Partners hereby acknowledge their intention that the Partnership be classified as a partnership (other than a “publicly traded partnership”) and not as an association taxable as a corporation for U.S. federal and state income tax purposes. Each Partner, by its execution or acceptance of this Agreement, covenants and agrees that, to the extent such Partner files any U.S. federal and state income tax or other U.S. tax return, such Partner will file such returns in a manner that is consistent with the Partnership’s tax classification as a partnership (other than a “publicly traded partnership”) for U.S. federal and state income tax purposes and will not take any action or make any election which is inconsistent with the classification of the Partnership, except as otherwise required pursuant to a “determination” within the meaning of Section 1313(a) of the Code. Notwithstanding anything to the contrary in this Agreement, this Agreement does not intend to create obligations for any Partner for U.S. federal and state tax purposes unless such Partner is considered as a U.S. person or is otherwise subject to tax under U.S. federal or state tax Law. For Mexican tax purposes, the Partnership will be treated as a corporation.
- 2.7 **Existence and Good Standing; Foreign Qualification** The General Partner in its sole discretion may take all action which may be necessary or appropriate (i) for the continuation of the Partnership’s valid existence as a limited partnership under the laws of Ireland (and of each other jurisdiction in which such existence is necessary to enable the Partnership to conduct the business in which it is engaged) and (ii) for the maintenance, preservation and operation of the business of the Partnership in accordance with the provisions of this Agreement and applicable Laws and regulations. The General Partner in its sole discretion may file or cause to be filed for recordation in the proper office or offices in each other jurisdiction in which the Partnership is qualified, such certificates (including certificates of formation) and other documents as are required by the applicable statutes, rules or regulations of any such jurisdiction or as are required to reflect the identity of the Partners. The General Partner in its sole discretion may cause the Partnership to comply, to the extent procedures are available and those matters are reasonably within the control of the General Partner, with all requirements necessary to qualify the Partnership to do business in any jurisdiction other than Ireland.
- 2.8 **Business Purpose** The purpose of the Partnership is to engage in (i) the ownership and operation of a biopharmaceutical business to, among other things, develop therapies designed to enhance renal functioning in humans with chronically diseased kidneys (the “**Business**”) and (ii) any and all activities necessary or incidental thereto. The Partners shall carry on the Business in partnership in accordance with this Agreement and the requirements of the Act.
- 2.9 **Title to Partnership Assets** All property and assets of the Partnership, real and personal (including intellectual and other intangible property), shall belong to the Partners in proportion to their Common Percentage Interest.
- 2.10 **Partners; Reclassification; Admission of New Partners** Each of the Persons listed on Schedule I hereto, as the same may be amended from time to time in accordance with this Agreement, by virtue of its execution of this Agreement, are the Partners of the Partnership. The rights, duties and liabilities of the Partners shall be as provided in this Agreement and the Act. Subject to Section 10.6 and the last sentence of this Section 2.10 with respect to substitute Partners, a Person may be admitted from time to time as a new Partner with the written consent of the General Partner in its sole discretion. Each new Partner shall execute and deliver to the General Partner an appropriate supplement to this Agreement pursuant to which the Person agrees to be bound by the terms and conditions of this Agreement, as it may be amended from time to time. A new General Partner or substitute General Partner may be admitted to the Partnership solely in accordance with Section 10.6.

- 2.11 **Resignation** No Partner shall have the right to resign as a partner of the Partnership other than following the Transfer, redemption or surrender of all Units owned by such Partner in accordance this Agreement.
- 2.12 **Maximum number of partners** The Partnership shall have no more than 20 partners.
- 2.13 **Representations and Warranties** Each Partner, on behalf of itself and its successors and assigns, hereby represents, warrants, and agrees for the benefit of the other Partners and the Partnership that as of such Partner's admittance to the Partnership (or as of the date hereof for any Partner as of the date hereof) and as of each subsequent date that such Partner acquires any additional Units that:
- 2.13.1 *Organization; Authority* To the extent it is not a natural person, (x) it is duly formed, validly existing and in good standing (if applicable) under the Laws of the jurisdiction of its formation, and if required by Law is duly qualified to conduct business and is in good standing in the jurisdiction of its principal place of business (if not formed in such jurisdiction), and (y) has full corporate, limited liability company, partnership, trust or other applicable power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement and all necessary actions by the board of directors, shareholders, managers, members, partners, trustees, beneficiaries or other Persons necessary for the due authorization, execution, delivery and performance of this Agreement by that Partner have been duly taken. It has duly executed and delivered this Agreement, and this Agreement is enforceable against such Partner in accordance with its terms, subject to bankruptcy, moratorium, insolvency and other Laws generally affecting creditors' rights and general principles of equity (whether applied in a proceeding in a court of law or equity).
- 2.13.2 *Non-Contravention* Its authorization, execution, delivery, and performance of this Agreement does not breach or conflict with or constitute a default under (x) such Partner's charter or other governing documents to the extent it is not a natural person, (y) any material obligation under any other material agreement to which that Partner is a party or by which it is bound or (z) applicable Law.
- 2.13.3 *Due Inquiry* It has had, prior to the execution and delivery of this Agreement, the opportunity to ask questions of and receive answers from representatives of the Partnership concerning an investment in the Partnership, as well as the finances, operations, business and prospects of the Partnership, and the opportunity to obtain additional information to verify the accuracy of all information so obtained, and received all such information about the Partnership and the Units as it has requested.
- 2.13.4 *Purpose of Investment* It is acquiring and holding its Units solely for investment purposes, for its own account and not for the account or benefit of any other Person and not with a view towards the distribution or dissemination thereof, did not decide to enter into this Agreement as a result of any general solicitation or general advertising within the meaning of Rule 502 of Regulation D under the Securities Act, and acknowledges and understands that no United States federal or state agency has passed upon or made any recommendation or endorsement of the offering of any Units.

- 2.13.5 *Transfer Restrictions* It understands that the Units and the Class B Common Shares are each being Transferred in a transaction not involving a public offering within the meaning of the Securities Act, and the Units and Class B Common Shares will comprise “**restricted securities**” within the meaning of Rule 144(a)(3) under the Securities Act which shall not be sold, pledged, hypothecated or otherwise transferred except in accordance with the terms of this Agreement. It understands and agrees that each of the Units and Class B Common Shares received or retained by it as consideration under the Business Combination Agreement, including any Units or Class B Common Shares issued or delivered to it after the Closing pursuant to the Business Combination Agreement, may not be Transferred during the Lock-Up Period except in accordance with the terms hereof. It agrees that, if in the future it decides to offer, resell, pledge or otherwise Transfer any portion of its Units or Class B Common Shares, such Units and/or Class B Common Shares may be offered, resold or otherwise Transferred only pursuant to an effective registration statement under the Securities Act or an applicable exemption from registration and/or qualification under the Securities Act and applicable state securities Laws, and as a condition precedent to any such Transfer, it may be required to deliver to the Partnership an opinion of counsel satisfactory to the Partnership, and agrees, absent registration or an exemption with respect to its Units, not to resell any such Units and/or Class B Common Shares. For the avoidance of doubt, no Partner may Transfer all or any portion of its Units or other interest in the Partnership (or beneficial interest therein), except as set forth in Section 10.
- 2.13.6 *Investor Status* It (i) has adequate means of providing for its current needs and possible contingencies, is able to bear the economic risks of its investment for an indefinite period of time and has a sufficient net worth to sustain a loss of its entire investment in the Partnership in the event such loss should occur, (ii) is sophisticated in financial matters and has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of an investment in the Partnership, (iii) is, or is controlled by, an “accredited investor,” as that term is defined in Rule 501(a) of Regulation D, promulgated under the Securities Act, and acknowledges the issuance of Units under this Agreement is being made in reliance on a private placement exemption to “accredited investors” within the meaning of Section 501(a) of Regulation D under the Securities Act or similar exemptions under federal and state Law, and (iv) is treated as a single partner within the meaning of Treasury Regulations Section 1.7704-1(h) (determined taking into account the rules of Treasury Regulations Section 1.7704-1(h)(3)).
- 2.13.7 *No Fraudulent Transfer* The consummation of the transaction contemplated hereby will not render such Partner insolvent or constitute a fraudulent conveyance or fraudulent transfer under any Applicable Law, such Partner has not made any general assignment for the benefit of creditors and no proceeding seeking (a) relief for such Partner under any bankruptcy or insolvency law, (b) the rearrangement or readjustment of such Partner debt, (c) the appointment of a receiver, custodian, liquidator or trustee to take possession of substantially all of the assets of such Partner, or (d) the liquidation of such Partner, has been commenced, is planned by such Partner or has been threatened by any other Person.
- 2.14 **Prior Partnership Agreement** Each of the Partners agrees and acknowledges that this Agreement amends and restates the Existing Partnership Agreement, which shall cease to be in effect upon this Agreement coming into effect. This Agreement shall come into effect on the Effective Date immediately prior to the Closing. The Post-Recapitalization Unit Issuance (if any) shall be treated as taking place immediately prior to the Closing. PubCo shall be admitted as a Limited Partner upon the Closing (and, for the avoidance of doubt, shall not be a Limited Partner at any time prior to the Closing).

**SECTION 3**  
**INTERESTS IN PARTNERSHIP; PARTNERS; FORM OF CAPITAL CONTRIBUTIONS;**  
**VOTING RIGHTS**

- 3.1.1 **Units** The interests of Partners in the Partnership shall be represented by Units, in accordance with Section 9.
- 3.2 **Partners** The respective names, addresses for notice number of Common Units and Capital Contributions made by the Partners are as set forth in Part 2 of Schedule 1, which are fully vested at the time of issuance. Schedule 1 shall be amended from time to time by the General Partner to reflect any changes of address, the admission of any substitute or additional Partners, any changes to the Common Units of any Partner or any changes to the information set forth thereon.
- 3.3 **Form of Capital Contributions** Each Partner has made the Capital Contributions equal to the Equity Contribution and Advance set forth opposite each Partner's name in Part 2 of Schedule 1 hereto under the heading, "*Capital Contribution*". Partners may make Capital Contributions (a) in full by way of an Equity Contribution or (b) partly by way of an Equity Contribution and partly by way of an Advance provided that at least 0.01% of the Capital Contribution shall be an Equity Contribution (with up to 99.99% being an Advance). No Limited Partner shall, while it remains a Limited Partner, be entitled directly or indirectly to draw out or receive back all or part of its Equity Contribution or Advances other than with the written agreement of the General Partner and the written consent of PubCo. The Partners intend to treat any Advances or Equity Contributions of a Partner to the Partnership as a contribution of property to the Partnership in exchange for an interest in the Partnership pursuant to Section 721 of the Code for U.S. federal income tax (or any similar provisions of applicable state or local tax Law) purposes and an equity contribution to the Partnership for Mexican tax purposes.
- 3.4 **No Additional Capital Contributions** No Partner shall be required to make additional Capital Contributions to the Partnership without the consent of such Partner or permitted to make additional capital contributions to the Partnership without the consent of the General Partner, which may be granted or withheld in its sole discretion.

**SECTION 4**  
**MANAGEMENT OF THE PARTNERSHIP**

- 4.1 **Authority of the General Partner** Except as expressly set forth herein, the business, property and affairs of the Partnership shall be exclusively managed, operated and controlled by the General Partner, and the General Partner shall have, and is hereby granted, the full and complete power, authority and discretion for, on behalf of and in the name of the Partnership, to take such actions as it may in its sole discretion deem necessary or advisable to carry out any and all of the objectives and purposes of the Partnership, subject only to the terms of this Agreement. The General Partner may from time to time delegate authority to Officers or to others to act on behalf of the Partnership.
- 4.2 **No Authority for the Limited Partners** No Limited Partner, in his, her or its capacity as such, shall have any authority or right to act for or bind the Partnership or to participate in or have any control over Partnership business.

- 4.3 **Duties of the General Partner** The General Partner shall exercise reasonable care and act in good faith in the best interests of the Partnership in the performance of its duties and exercise of its powers hereunder and shall have regard to and, as necessary, comply with such matters as a prudent general partner would have regard to and comply with (having regard to trends and developments in the sectors in which the Partnership is operating) in the proper discharge of its duties including, without limitation, compliance with legislation applicable to the performance of its duties and exercise of its powers as General Partner as provided for herein.
- 4.4 **Authorisation of the General Partner** Without limiting the generality of the foregoing, but subject to any situations in which the approval of the Limited Partners or PubCo is specifically required by this Agreement, (x) the General Partner shall have discretion in determining whether to issue Equity Interests of the Partnership, the number of Equity Interests of the Partnership to be issued at any particular time, the purchase price for any Equity Interests of the Partnership issued, and all other terms and conditions governing the issuance of Equity Interests of the Partnership; provided that notwithstanding anything to the contrary herein, no Equity Interests ranking senior to the Common Units held by PubCo (including with respect to voting, liquidation and distribution rights) shall be authorized or issued without the prior written consent of PubCo; and (y) the General Partner (with the prior written consent of PubCo) may enter into, approve, and consummate any Liquidity Event or other extraordinary or business combination or divestiture transaction, and execute and deliver on behalf of the Partnership or the Partners any agreement, document and instrument in connection therewith (including amendments, if any, to this Agreement or adoptions of new constituent documents) without the approval or consent of any other Partner. The General Partner shall operate the Partnership and its Subsidiaries in accordance in all material respects with an annual budget, business plan and financial forecasts for the Partnership and its Subsidiaries for each fiscal year. Without prejudice to the generality of the foregoing, the General Partner shall have full power and authority, on behalf of the Partnership and so as to bind the Partnership thereby, and the Limited Partners expressly authorise the General Partner:
- 4.4.1 to develop and prepare a business plan each year which will set forth the operating goals and plans for the Partnership;
  - 4.4.2 to deal with the entire legal and/or beneficial interest in all or any part of the Partnership Assets;
  - 4.4.3 to carry out the objectives of the Business including, where necessary or desirable for the purpose of doing so, to identify, evaluate and negotiate opportunities for the acquisition, holding and realisation of assets or for the purchase, holding or sale of shares, ownership interests or other equity of bodies corporate or partnerships holding assets (directly or indirectly) or for the purchase or holding or acquisition of debt, to prepare and approve any agreements or other documents required to allow the Partnership to acquire such assets and to (or to agree to) purchase, sell, alone or together with others, assets or shares, ownership interests or other equity or capital in bodies corporate or partnerships holding assets and to either maximise the value of such assets and to enter into agreements or other documents on behalf of the Partnership accordingly (in each case whether personally or through an attorney or other agent);
  - 4.4.4 to exercise all rights conferred upon the Partnership under the terms of any agreement or document entered into by the Partnership and generally to take any action the General Partner considers appropriate for the protection of Partnership Assets;



- 4.4.5 to commence, conduct, settle or defend litigation that pertains to the Partnership or to any of the Partnership Assets;
- 4.4.6 to maintain records and books of account of and in the name of the Partnership at the Partnership's or its own principal place of business or at the principal place of business of the General Partner and to allow any Partner holding at least 5% of the Common Percentage Interest (excluding, for purposes of this calculation, Common Units then owned by the PubCo (if any) or any Subsidiary of PubCo (if any)) and its representatives access thereto at any reasonable time, subject to giving 3 (three) days written notice in advance, for the purpose of inspecting same. In any event, upon request by the Partners or within 10 (ten) days before any proposed change, the General Partner must notify the Partners of the place of maintenance of the books and records of the Partnership;
- 4.4.7 to make distributions to the Partners in accordance with the terms of this Agreement;
- 4.4.8 to engage independent agents, lawyers, accountants, custodians, paying and collecting agents and financial and other advisers and consultants as it may deem necessary or advisable in relation to the affairs of the Partnership to perform or assist in the performance of all or any of the activities set forth in this [section 4.4](#);
- 4.4.9 to register and publish all such notices, statements or other instruments as may be required pursuant to the Act to be registered and published in relation to the establishment of the Partnership and in relation to any changes occurring in relation to the Partnership;
- 4.4.10 to open bank accounts in the name of the Partnership and to place funds not immediately required for the purposes of the Business;
- 4.4.11 to lend or borrow money, to assume or guarantee, or otherwise contract for, indebtedness and other liabilities, to issue evidences of indebtedness and to incur any other obligations;
- 4.4.12 to establish and enforce limits of authority and internal controls with respect to all personnel and functions;
- 4.4.13 to sign any written resolutions and to attend, speak and vote at any shareholder meetings of any company or companies in which the Partnership may hold shares or otherwise to act as attorney or proxy in respect of any stocks, shares or other investments now held or which may hereafter be acquired by the Partnership or in any company whether solely or jointly with any other person or persons;
- 4.4.14 to sign, seal and deliver all resolutions and agreements concerning any holding of shares or any interest in any company;
- 4.4.15 to execute, deliver and file any other certificates (and any amendments and/or restatements thereof) necessary for the Partnership to qualify to do business in a jurisdiction in which the Partnership may wish to conduct business;
- 4.4.16 to do all or any other acts as are required of the General Partner by this Agreement or as are necessary or desirable in the reasonable opinion of the General Partner in furtherance of the foregoing powers and consistent within the terms of this Agreement.

Notwithstanding any other provision of this Agreement to the contrary, without the consent of any Partner being required, the General Partner is hereby authorized to execute, deliver and perform (x) the Tax Receivable Agreement; and (y) any amendment and any agreement, document or other instrument contemplated thereby or related thereto. The General Partner is hereby authorized to enter into the documents described in the preceding sentence on behalf of the Partnership and the Partners, but such authorization shall not be deemed a restriction on the power of the General Partner (or any Officer or director of the General Partner) to enter into other documents on behalf of the Partnership. Nothing set forth in this Agreement shall reduce or restrict the rights of any Person set forth in the Tax Receivable Agreement, subject to the terms and conditions thereof.

The Partnership shall not enter into any contract, transaction or arrangement with any Partner or any Connected person of a Partner, without PubCo's prior written consent (other than contracts and dealings solely among the Partnership and its Subsidiaries).

- 4.5 **Maintaining the limited liability of the Limited Partners.** The General Partner shall do all things and discharge all duties or requirements of or imposed on a general partner by the Act and in particular so as to ensure, so far as it is able, that the liability of each Limited Partner is and remains limited as provided in the Act. If, for any reason, a Limited Partner is adjudicated to have lost its limited liability status or privileges as a limited partner under the Act by reason of taking part in the management of the Partnership business or otherwise, the General Partner and each other Limited Partner agrees and undertakes not to bring any claim itself or to support any claim by any other person that such Limited Partner should be liable for the debts or obligations of the Partnership beyond the amount it would otherwise be liable for under section 4 of the Act if it had retained such limited liability status and privileges.
- 4.6 **Salary or fees.** No salary or fees will be paid to the General Partner for the performance of its duties under this Agreement.
- 4.7 **Legal and Accounting Services** The General Partner may obtain legal and accounting services on behalf of the Partnership to the extent reasonably necessary for the conduct of the Partnership's business.

## SECTION 5 LIMITED PARTNERS

- 5.1 **Prohibition on management** The Limited Partners shall not:
- 5.1.1 take any part in the management of the Partnership or its Business or affairs;
  - 5.1.2 have any right or authority to act for the Partnership; or
  - 5.1.3 take any part in or in any way interfere with the conduct or management of the Partnership.
- 5.2 **Prohibition on acting on behalf of the Partnership** The Limited Partners shall have no power or authority to act on behalf of the Partnership or to bind the Partnership in any way. The conduct, control and management of the Partnership shall be vested exclusively in the General Partner. No Limited Partner shall participate in or have any control over the management of the business of the Partnership. Except as expressly provided herein, the Units do not confer any rights upon the Limited Partners to participate in the affairs of the Partnership described in this Agreement.

**SECTION 6**  
**DISTRIBUTIONS AND ALLOCATIONS**

**6.1 Distributions**

- 6.1.1 *Distributions Generally.* The General Partner may, subject to (i) any restrictions contained in the financing agreements to which the Partnership or any its Subsidiaries is a party, (ii) having Available Cash, and (iii) any other restrictions set forth in this Agreement, make Distributions at any time and from time to time. If any assets of the Partnership are to be distributed in kind, they shall be distributed on the basis of their Fair Market Value. The Partners' Capital Accounts shall be appropriately adjusted before any such distribution to reflect the increases or decreases to the Capital Accounts which would have occurred if the property distributed in kind had been sold for its Fair Market Value by the Partnership prior to the distributions. Notwithstanding any other provision of this Agreement to the contrary, no Distribution, Tax Distribution or other payment in respect of Units shall be required to be made to any Partner if, and to the extent that, such Distribution, Tax Distribution or other payment in respect of Units would not be permitted under the Act or other applicable Law.
- 6.1.2 *Operating Distributions.* The General Partner, in its sole discretion, may authorize Distributions (to the extent of Available Cash) by the Partnership to the Partners at any time and from time to time. All Distributions by the Partnership (other than those made in connection with a Liquidity Event pursuant to Section 6.2) shall be made or allocated to holders of Participating Units *pro rata* based on the number of Participating Units held by each such holder.
- 6.1.3 *Restricted Common Unit Distributions.* No Restricted Common Unit shall be entitled to receive any Distributions pursuant to Section 6.1.2 or Section 6.2 unless and until a Vesting Event has occurred with respect to such Restricted Common Unit (and then only with respect to periods following such Vesting Event). Notwithstanding anything to the contrary herein, Restricted Common Units shall not be entitled to any "catch up" distributions in respect of periods prior to such Vesting Event.
- 6.1.4 *Tax Distributions.*

(a) Partner's Required Tax Distribution With respect to each Partner, the Partnership shall calculate the excess of (x)(A) the Income Amount allocated or allocable to such Partner for the Tax Estimation Period in question and for all preceding Tax Estimation Periods, if any, within the taxable year containing such Tax Estimation Period multiplied by (B) the Assumed Tax Rate over (y) the aggregate amount of all prior Tax Distributions in respect of such taxable year and any Distributions made to such Partner pursuant to Section 6.1.2, Section 6.1.3 or Section 6.2, with respect to the Tax Estimation Period in question and any previous Tax Estimation Period falling in the taxable year containing the applicable Tax Estimation Period referred to in (x)(A) (the amount so calculated pursuant to this sentence is herein referred to as a "**Partner's Required Tax Distribution**"); provided, however, that the General Partner may make adjustments in its reasonable discretion to reflect transactions occurring during the taxable year; provided, further, that if the amount of a Tax Distribution actually made with respect to a Tax Estimation Period is greater than or less than any such Partner's Required Tax Distribution that would have been made under this Section 6.1.4(a) for such period based on subsequent tax information and assuming no limitations based on prohibitions under applicable Law, Available Cash, or insolvency (such limitations, the "**Liquidity Limitations**") (e.g., because the estimated Tax Distribution for a Tax Estimation Period was greater than or less than the amount calculated based on actual taxable income for such Tax Estimation Period or because such Tax

Distribution would have rendered the Partnership insolvent), then, for subsequent Tax Estimation Periods, the General Partner shall, subject to the Liquidity Limitations, cause the Partnership to adjust the next Partner's Required Tax Distribution downward (but not below zero) or upward (but the resulting Tax Distribution shall in all cases remain *pro rata* in accordance with each Partner's Common Percentage Interest) to reflect such excess or shortfall; provided, further, with respect to PubCo and its wholly owned Subsidiaries, the Partner's Required Tax Distribution for any Tax Estimation Period shall be an amount sufficient for PubCo and its wholly owned Subsidiaries to receive a Distribution pursuant to Section 6.1.1 and this Section 6.1.4 sufficient to enable PubCo and its wholly owned Subsidiaries to meet (i) their U.S. federal, state and local and non-U.S. tax obligations and (ii) their obligations under the Tax Receivable Agreement for such Tax Estimation Period (but the resulting Tax Distribution shall in all cases remain *pro rata* in accordance with each Partner's Common Percentage Interest). For purposes of this Agreement, the "**Income Amount**" for a Tax Estimation Period shall equal, with respect to any Partner, the net taxable income (or, if applicable, gross taxable income, except to the extent offset by items of loss thereof) of the Partnership allocated or allocable to such Partner for such Tax Estimation Period (excluding any compensation paid to a Partner but taking into account any corrective allocations made pursuant to [Section 7.4.10](#) or [Section 7.4.12](#)). For purposes of computing the Income Amount, the taxable income shall be determined by including (i) any special adjustments of tax items required as a result of any election under Section 754 of the Code, including adjustments required by Sections 734 and 743 of the Code, and (ii) adjustments to taxable income in respect of Section 704(c) of the Code (including "**reverse Section 704(c) allocations**"). For the avoidance of doubt, taxable income will include any amounts required to be included in taxable income by a Partner as a result of ownership by the Partnership of an entity classified as a: (i) "passive foreign investment company" within the meaning of Section 1297 of the Code (including by reason of a "qualifying electing fund" election or a mark-to-market election) or (ii) "controlled foreign corporation" within the meaning of Section 957 of the Code in which a Partner (or any of its direct or indirect owners) could be a "United States shareholder" for U.S. federal income tax purposes.

(b) **Timing of Tax Distributions** At least five (5) days before the quarterly due date for payment of estimated tax payments by corporations or individuals (whichever is earlier) on a calendar year under the Code, the Partnership shall distribute (to the extent of Available Cash and unless prohibited by applicable Law or by any restrictions applicable to tax distributions contained in the Partnership's or its Subsidiaries' then applicable bank financing agreements by which the Partnership or its Subsidiaries are bound) to the Partners *pro rata* in accordance with their Common Percentage Interest), an aggregate amount of cash sufficient to provide each such Partner with a Distribution at least equal to such Partner's Required Tax Distribution (with amounts distributed pursuant to this Section 6.1.4, "**Tax Distributions**"). Notwithstanding anything to the contrary contained in this Agreement, (i) the General Partner shall make, in its reasonable discretion, equitable adjustments (downward (but not below zero) or upward) to the Partners' Required Tax Distributions (but the resulting Tax Distribution shall in all cases remain *pro rata* in accordance with each Partner's Common Percentage Interest) to take into account increases or decreases in the number of Common Units held by each Partner during the relevant period (including as a result of conversion of any Restricted Common Units into Common Units in connection with the occurrence of a Vesting Event); provided that, no such adjustments shall be made that would have a material adverse effect on the Continuing Partners without the Continuing Partner Representative's prior written consent (which consent shall not be unreasonably withheld, conditioned, or delayed), and (ii) no Tax Distributions (or downward (but not below zero) or upward adjustment to any Tax Distributions) shall be made other than on a *pro rata* basis in proportion to the Partners' respective number of Common Units). Any Tax Distributions shall be treated in all respects as advances against future Distributions pursuant to Section 6.1.2 and Section 6.2 and shall be treated for all purposes of this Agreement as having been paid pursuant to Section 6.1.2 or Section 6.2, as applicable.

(c) **No Tax Distributions for Covered Transactions** Notwithstanding anything to the contrary herein, no Tax Distributions will be required to be made with respect to items arising with respect to any Covered Transaction, provided that any unpaid Tax Distributions with respect to any Tax Estimation Period, or portion thereof, ending before a Covered Transaction shall continue to be required to be paid prior to any Distributions being made under Section 6.1.2 and Section 6.2.

- 6.2 **Liquidation Distribution** All Distributions by the Partnership, and all proceeds (whether received by the Partnership or directly by the Partners) in connection with dissolution of the Partnership shall be made or allocated among the holders of Participating Units *pro rata* based on the number of Participating Units held by each such holder.
- 6.3 **Limitations on Distribution** Notwithstanding any provision to the contrary contained in this Agreement, the General Partner shall not make a Distribution to any Partner if such Distribution would violate the Act or other applicable Law.
- 6.4 **Use of Distribution Funds by PubCo** PubCo shall use Distributions received from the Partnership for payment of taxes, obligations under the Tax Receivable Agreement, liabilities or expenses, to loan funds to the Partnership in accordance with this Agreement, for the payment of dividends to its shareholders or for other general corporate purposes as determined in the sole discretion of the PubCo; provided that, PubCo may not use such Distributions to acquire any Units, except as otherwise provided in Section 9.5.
- 6.5 **Distributions to the General Partner** Notwithstanding any other provision of this Agreement, the General Partner shall be allocated an amount equal to a 0.000001% share of profits and losses of the Partnership, up to a maximum allocated profit or loss of \$10 per year, and the aggregate of its reasonable vouched expenses. The Available Cash available for distribution to the Limited Partners shall be determined after reserving an amount of Available Cash equal to any profits so allocated to the General Partner (after taking into account any allocated losses), which may be distributed by the Partnership to the General Partner any time after 180 days following the end of each Fiscal Year. Other than as specified in this Section 6.5 the General Partner shall have no entitlement to participate in any Distribution.

## SECTION 7 CAPITAL ACCOUNTS; TAX ALLOCATIONS; TAX MATTERS

- 7.1 **Capital Contributions Made Prior to the Effective Date** The Continuing Partners have made, prior to the date hereof, Capital Contributions and, in exchange, the Continuing Partners have been allocated the number of Common Units as specified in Schedule 1 hereto.
- 7.2 **Capital Accounts.**
- 7.2.1 *Partner Capital Accounts* A separate capital account (a “**Capital Account**”) shall be established and maintained for each Partner in accordance with the provisions of Treasury Regulations Section 1.704-1(b)(2)(iv) and this Section 7.2.1. The Partnership may adjust the Capital Accounts of its Partners to reflect revaluations of the property of any Subsidiary of the Partnership that is treated as a partnership (or entity disregarded from a partnership) for U.S. federal income tax purposes. The Capital Account of each Partner shall be credited with such

Partner's Capital Contributions, if any, all Profits allocated to such Partner pursuant to Section 7.3 and any items of income or gain which are specially allocated pursuant to Section 7.4; and shall be debited with all Losses allocated to such Partner pursuant to Section 7.3, any items of loss or deduction of the Partnership specially allocated to such Partner pursuant to Section 7.4, and all cash and the Carrying Value of any property (net of liabilities assumed by such Partner and the liabilities to which such property is subject) distributed by the Partnership to such Partner. Any references in any section of this Agreement to the Capital Account of a Partner shall be deemed to refer to such Capital Account as the same may be credited or debited from time to time as set forth above. In the event of any Transfer of any interest in the Partnership in accordance with the terms of this Agreement, the Transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred interest. The General Partner shall also (i) make any adjustments that are necessary or appropriate in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(q) and (ii) make any appropriate modifications for unanticipated events that might otherwise cause this Agreement not to comply with Treasury Regulations Section 1.704-1(b), provided that, to the extent that any such adjustment is inconsistent with any other provisions of this Agreement and would have a disproportionate (compared to PubCo) and material adverse effect on any Partner, such adjustment shall require the consent of such Partner. For Mexican tax purposes, the applicable rules shall be article 4-A, and related provisions of the Mexican income tax law.

- 7.2.2 **Loans to the Partnership** If a Partner advances or lends any funds to the Partnership (other than, for the avoidance of doubt, any Advance made as part of a Capital Contribution), the amount of any such loan shall not increase the Partner's Capital Account or affect in any way his, her or its share, as a Partner, in the profits, losses or distributions of the Partnership, but shall be a debt due from the Partnership.
- 7.3 **Allocations of Profits and Losses** Except as otherwise provided in this Agreement, Profits and Losses (and, to the extent necessary, individual items of income, gain or loss or deduction of the Partnership) shall be allocated in a manner such that the Capital Account of each Partner after giving effect to the special allocations set forth in Section 7.4 is, as nearly as possible, equal (proportionately) to (i) the Distributions that would be made pursuant to Section 6.2 if the Partnership were dissolved, its affairs wound up and its assets sold for cash equal to their Carrying Value, all Partnership liabilities were satisfied in cash in accordance with their terms (limited with respect to each nonrecourse liability to the Carrying Value of the assets securing such liability) and all remaining or resulting cash was distributed to the Partners, minus (ii) such Partner's share of Partnership Minimum Gain and Partnership Nonrecourse Debt Minimum Gain, computed immediately prior to the hypothetical sale of assets. Notwithstanding the foregoing, the General Partner shall make such adjustments to Capital Accounts as it determines in its reasonable discretion to be appropriate to ensure allocations are made in accordance with a Partner's interest in the Partnership.
- 7.4 **Special Allocations** Notwithstanding any other provisions in this Section 7:
- 7.4.1 **Minimum Gain Chargeback.** If there is a net decrease in Partnership Minimum Gain (determined in accordance with the principles of Treasury Regulations Section 1.704-2(d)) during any Partnership taxable year, the Partners shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to their respective shares of such net decrease during such year, determined pursuant to Treasury Regulations Section 1.704-2(g). The items to be so allocated shall be determined in accordance with Treasury Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 7.4.1 is intended to comply with the minimum gain chargeback requirements in Treasury Regulations Section 1.704-2(f) shall be interpreted consistently therewith, including that no chargeback shall be required to the extent of the exceptions provided therein.

- 7.4.2 *Nonrecourse Debt Minimum Gain Chargeback.* If there is a net decrease in Partner Nonrecourse Debt Minimum Gain (determined in accordance with the principles of Treasury Regulations Section 1.704-2(i)) during any Partnership taxable year, the Partners shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to their respective shares of such net decrease during such year, determined pursuant to Treasury Regulations Section 1.704-2(i)(5). The items to be so allocated shall be determined in accordance with Treasury Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 7.4.2 is intended to comply with the minimum gain chargeback requirements in such Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith, including that no chargeback shall be required to the extent of the exceptions provided therein.
- 7.4.3 *Qualified Income Offset.* If any Partner unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Partnership income and gain shall be specially allocated to such Partner in an amount and manner sufficient to eliminate the deficit balance in such Partner's Adjusted Capital Account Balance created by such adjustments, allocations or distributions as promptly as possible; provided that, an allocation pursuant to this Section 7.4.3 shall be made only to the extent that a Partner would have a deficit Adjusted Capital Account Balance in excess of such sum after all other allocations provided for in this Section 7 have been tentatively made as if this Section 7.4.3 were not in this Agreement. This Section 7.4.3 is intended to comply with the "qualified income offset" requirement of the Code and shall be interpreted consistently therewith.
- 7.4.4 *Gross Income Allocation.* If any Partner has a deficit Capital Account at the end of any Fiscal Year which is in excess of the sum of (i) the amount such Partner is obligated to restore, if any, pursuant to any provision of this Agreement, and (ii) the amount such Partner is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Section 1.704-2(g)(1) and 1.704-2(i)(5), each such Partner shall be specially allocated items of Partnership income and gain in the amount of such excess as quickly as possible; provided that, an allocation pursuant to this Section 7.4.4 shall be made only if and to the extent that a Partner would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Section 7 have been tentatively made as if Section 7.4.3 and this Section 7.4.4 were not in this Agreement.
- 7.4.5 *Nonrecourse Deductions.* Nonrecourse Deductions for any taxable period shall be allocated to the Partners holding Common Units in accordance with their respective Common Percentage Interest.
- 7.4.6 *Partner Nonrecourse Deductions.* Partner Nonrecourse Deductions for any taxable period shall be allocated to the Partner who bears the economic risk of loss with respect to the liability to which such Partner Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i)(1).
- 7.4.7 *Section 754 Adjustments.* To the extent an adjustment to the adjusted tax basis of any Partnership Asset, pursuant to Code Section 734(b) or Section 743(b) is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a Distribution to a Partner in complete liquidation of such Partner's interest in the Partnership, the amount of such adjustment

to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Partners in accordance with their interests in the Partnership in the event Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Partner to whom such Distribution was made in the event Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

- 7.4.8 *Ameliorative Allocations.* Any special allocations of income or gain pursuant to Sections 7.4.1, 7.4.2, 7.4.3 or 7.4.4 hereof shall be taken into account in computing subsequent allocations pursuant to Section 7.3 and this Section 7.4.8, so that the net amount of any items so allocated and all other items allocated to each Partner shall, to the extent possible, be equal to the net amount that would have been allocated to each Partner if such allocations pursuant to Sections 7.4.1, 7.4.2, 7.4.3 or 7.4.4 had not occurred.
- 7.4.9 *Allocations Relating to Taxable Issuance of Partnership Units.* Any income, gain, loss, or deduction realized as a direct or indirect result of the issuance of Units by the Partnership to a Partner (the “**Issuance Items**”) shall be allocated among the Partners so that, to the extent possible, the net amount of such Issuance Items, together with all other allocations under this Agreement to each Partner shall be equal to the net amount that would have been allocated to each such Partner if the Issuance Items had not been realized. The forfeiture allocations described in Proposed Regulations Section 1.704-1(b)(4)(xii)(C) (2005), and the allocations to which they relate, shall be treated as Issuance Items.
- 7.4.10 *Restricted Common Units.* Notwithstanding anything to the contrary contained in this Agreement, (1) no allocation (of Profits or Losses or otherwise) shall be made in respect of any Restricted Common Units in determining Capital Accounts unless and until such Restricted Common Units are converted into Common Units upon the occurrence of a Vesting Event and (2) in the event the Carrying Value is adjusted pursuant to clause (g) of the definition of Carrying Value, any Profits or Losses resulting from such adjustment shall, in the manner reasonably determined by the General Partner, be allocated among the Partners (including the Partners who held the Restricted Common Units giving rise to such adjustment) such that the Capital Account balance relating to each Common Unit (including such Restricted Common Units that have been converted into Common Units) is equal in amount immediately after making such allocation in accordance with principles similar to those set forth in Treasury Regulations Section 1.704-1(b)(2)(iv)(s). In connection with and following the occurrence of each Vesting Event, Tolerantia, LLC may require that the Partnership either (A) allow it or its Affiliate to subscribe for and purchase \$10,000 worth of Common Units from the Partnership (or a larger amount with the consent of the General Partner) rounded down to the nearest Common Unit for cash consideration priced using the 5 Day VWAP (at which time Carrying Value shall be adjusted pursuant to clause (a) of the definition of Carrying Value); or (B) redeem Tolerantia, LLC of \$10,000 worth of its Common Units (or a larger amount with the consent of the General Partner) rounded down to the nearest Common Unit for cash consideration priced using 5 Day VWAP (at which time Carrying Value shall be adjusted pursuant to clause (b) of the definition of Carrying Value).
- 7.4.11 *Forfeiture Allocation.* In the event that the Units of any Partner are forfeited, then for the fiscal year of such forfeiture or other period (as determined by the General Partner):
- (i) items of income, gain, loss, and deduction shall be excluded from the calculation of Profits and Losses and shall be specially allocated to the Partner whose Units have been forfeited so as to cause such Partner’s Capital Account to equal such Partner’s Distribution entitlements under Section 6.1 after giving effect to the adjustment in the Partner’s Common Percentage Interest resulting from the applicable forfeiture; and



(ii) the General Partner may elect to apply another allocation or Capital Account adjustment method to a Unit forfeiture as it reasonably deems appropriate in lieu of the method set forth in Section 7.4.11(i).

- 7.4.12 *Non-compensatory Options.* If, as a result of an exercise of a non-compensatory option to acquire an interest in the Partnership, a Capital Account reallocation is required under Treasury Regulations Section 1.704-1(b)(2)(iv)(s)(3), the Partnership shall make corrective allocations pursuant to Treasury Regulations Section 1.704-1(b)(4)(x).
- 7.5 **Tax Allocations** For U.S. federal income tax purposes, each item of income, gain, loss and deduction of the Partnership shall be allocated among the Partners in the same manner as the corresponding items of Profits and Losses and specially allocated items are allocated for Capital Account purposes; provided that, in the case of any asset the Carrying Value of which differs from its adjusted tax basis for U.S. federal income tax purposes, income, gain, loss and deduction with respect to such asset shall be allocated solely for income tax purposes in accordance with the principles of Sections 704(b) and (c) of the Code (in any manner determined by the General Partner and permitted by the Code and Treasury Regulations; provided that, except as otherwise provided in this Section 7.5, the prior written consent of the Requisite Continuing Partners shall be required for use of any method other than the traditional method (without curative allocations) described in Treasury Regulation Section 1.704-3(b)) so as to take account of the difference between Carrying Value and adjusted basis of such asset; provided, further, that with respect to the reverse Section 704(c) allocations resulting from the adjustment that occurred immediately prior to the investment by PubCo in connection with the Existing Partnership Agreement and the subsequent purchase of interests in the Partnership by PubCo pursuant to the Business Combination Agreement, the Partnership shall adopt the “remedial allocation method” described in Treasury Regulation Section 1.704-3(d) (unless otherwise consented to by PubCo), for making such allocations. Notwithstanding the foregoing, the General Partner shall make such allocations for tax purposes as it determines in its reasonable discretion, subject to, for so long as the Continuing Partners collectively own at least 10% of the Units, the prior written consent, not to be unreasonably withheld, conditioned or delayed, of the Requisite Continuing Partners, to be appropriate to ensure allocations are made in accordance with a Partner’s interest in the Partnership.
- 7.6 **Tax Advances** If the Partnership or any other Person in which the Partnership holds an interest is required by Law to withhold or to make tax payments on behalf of or with respect to any Partner, or the Partnership is subjected to tax itself (including any amounts withheld from amounts directly or indirectly payable to the Partnership or to any other Person in which the Partnership holds an interest) by reason of the status of any Partner as such or that is specifically attributable to a Partner (including U.S. federal, state, or local or non-U.S. withholding, personal property, unincorporated business or other taxes, the amount of any taxes arising under the Partnership Audit Provisions, the amount of any taxes imposed under Code Section 1446(f), and any interest, penalties, additions to tax, and expenses related to any such amounts) (“**Tax Advances**”), the General Partner may cause the Partnership to withhold such amounts and cause the Partnership to make such tax payments as so required. All Tax Advances made on behalf of a Partner shall be repaid by reducing the amount of the current or next succeeding Distribution or Distributions which would otherwise have been made to such Partner or, if such Distributions are not sufficient for that purpose, by so reducing the proceeds of liquidation otherwise payable to such Partner. For all purposes of this Agreement, such Partner shall be

treated as having received the amount of the Distribution that is equal to the Tax Advance. Each Partner hereby agrees to indemnify and hold harmless the Partnership and the other Partners from and against any liability (including any liability for taxes, penalties, additions to tax or interest other than any penalties, additions to tax or interest imposed as a result of the Partnership's failure to withhold or make a tax payment on behalf of such Partner which withholding or payment is required pursuant to applicable Law) with respect to income attributable to or Distributions or other payments to such Partner. For the avoidance of doubt, any income taxes, penalties, additions to tax and interest payable by the Partnership or any fiscally transparent entity in which the Partnership owns an interest shall be treated as specifically attributable to the Partners and shall be allocated among the Partners such that the burden of (or any diminution in distributable proceeds resulting from) any such amounts is borne by those Partners to whom such amounts are specifically attributable (whether as a result of their status, actions, inactions or otherwise, including pursuant to an allocation made under Section 7.7), in each case as reasonably determined by the General Partner. For the avoidance of doubt, any taxes, penalties, and interest payable under the Partnership Audit Provisions by the Partnership or any fiscally transparent entity in which the Partnership owns an interest shall be treated as specifically attributable to the Partners of the Partnership, and the General Partner shall use commercially reasonable efforts to allocate the burden of (or any diminution in distributable proceeds resulting from) any such taxes, penalties or interest to those Partners to whom such amounts are specifically attributable (whether as a result of their status, actions, inactions or otherwise), as reasonably determined by the General Partner.

7.7

#### **Partnership Representative**

(a) General Partner as Partnership Representative The General Partner is hereby designated as the "partnership representative" as that term is defined in Partnership Audit Provisions for taxable years of the Partnership beginning with the taxable year including the Effective Date. In addition, the General Partner is hereby authorized to designate or remove any other Person as the Partnership Representative. For each Fiscal Year in which the Partnership Representative is an entity, the Partnership Representative shall appoint an individual identified by the Partnership Representative for such Fiscal Year to act on its behalf (the "**Designated Individual**") in accordance with the applicable regulations or analogous provisions of state or local Law. Each Partner hereby expressly consents to such designations and agrees to take, and that the General Partner is authorized to take (or cause the Partnership to take), such other actions as may be necessary or advisable pursuant to Treasury Regulations or other IRS or Treasury guidance or state or local Law to cause such designations or evidence such Partner's consent to such designations.

(b) Authority of Partnership Representative Subject to this Section 7.7, the Partnership Representative shall have the sole authority to act on behalf of the Partnership in connection with, make all relevant decisions regarding application of, and to exercise the rights and powers provided for in the Partnership Audit Provisions, including making any elections under the Partnership Audit Provisions or any decisions to settle, compromise, challenge, litigate or otherwise alter the defense of any action, audit or examination before the IRS or any other tax authority (each, an "**Audit**"), and to expend Partnership funds for professional services and other expenses reasonably incurred in connection therewith.

(c) Notice of Audits Without limiting the foregoing, the Partnership Representative shall give prompt written notice to the Continuing Partner Representative of the commencement of any Audit of the Partnership or any of its Subsidiaries the resolution of which would reasonably be expected to have a disproportionate (compared to PubCo) and material adverse effect on the Continuing Partners (a “**Specified Audit**”). The Partnership Representative shall (i) keep the Continuing Partner Representative reasonably informed of the material developments and status of any such Specified Audit, (ii) permit the Continuing Partner Representative (or its designee) to participate (including using separate counsel), in each case at the Continuing Partner’s sole cost and expense, in any such Specified Audit, and (iii) promptly notify the Continuing Partner Representative of receipt of a notice of a final partnership adjustment (or equivalent under applicable Laws) or a final decision of a court or IRS Independent Office of Appeals panel (or equivalent body under applicable Laws) with respect to such Specified Audit. The Partnership Representative or the Partnership shall promptly provide the Continuing Partner Representative with copies of all material correspondence between the Partnership Representative or the Partnership (as applicable) and any governmental entity in connection with such Specified Audit and shall give the Continuing Partner Representative a reasonable opportunity to review and comment on any material correspondence, submission (including settlement or compromise offers) or filing in connection with any such Specified Audit. Additionally, the Partnership Representative shall not (and the Partnership shall not (and shall not authorize the Partnership Representative to)) settle, compromise or abandon any Specified Audit in a manner that would reasonably be expected to have a disproportionate (compared to PubCo) and material adverse effect on the Continuing Partners without the Requisite Continuing Partners’ prior written consent (which consent shall not be unreasonably withheld, delayed or conditioned). The Partnership Representative shall obtain the prior written consent of the Requisite Continuing Partners (which consent shall not be unreasonably withheld, delayed or conditioned) before (i) making an election under Section 6226(a) of the Code (or any analogous provision of state, local or non-U.S. Law) or (ii) taking any material action under the Partnership Audit Provisions that would reasonably be expected to have a disproportionate (compared to PubCo) and material adverse effect on the Continuing Partners, in the case of clauses (i) and (ii); provided that, no consent from the Requisite Continuing Partners is required in order to make an election under Section 6226(a) of the Code with respect to taxable periods that began on or before the Effective Time.

(d) Expenses of Partnership Representative All expenses incurred by the Partnership Representative or Designated Individual in connection with its duties as partnership representative or designated individual, as applicable, shall be expenses of the Partnership (including, for the avoidance of doubt, any costs and expenses incurred in connection with any claims asserted against the Partnership Representative or Designated Individual, as applicable, except to the extent the Partnership Representative or Designated Individual is determined to have performed its duties in the manner described in clauses (i) and (ii) of the final sentence of this Section 7.7(d)), and the Partnership shall reimburse and indemnify the Partnership Representative or Designated Individual, as applicable, for all such expenses and costs. Nothing herein shall be construed to restrict the Partnership Representative or Designated Individual from engaging lawyers, accountants, tax advisers, or other professional advisers or experts to assist the Partnership Representative or Designated Individual in discharging its duties hereunder. Neither the Partnership Representative nor Designated Individual shall be liable to the Partnership, any Partner or any Affiliate thereof for any costs or losses to any Persons, any diminution in value or any liability whatsoever arising as a result of the performance of its duties pursuant to this Section 7.7 absent (i) willful breach of any provision of this Section 7.7 or (ii) bad faith, fraud, gross negligence or wilful misconduct on the part of the Partnership Representative or Designated Individual, as applicable.

(e) **Adherence to Business Combination Agreement** The Partnership, the Partnership Representative, and the Partners expressly agree to be bound by the terms of Section 7.6 of the Business Combination Agreement. Notwithstanding anything to the contrary contained in this Agreement, in the event of any conflict between Section 7.6 of the Business Combination Agreement and this Agreement, Section 7.6 of the Business Combination Agreement shall control.

- 7.8 **Other Allocation Provisions** Certain of the foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such regulations. In addition to amendments effected in accordance with Section 14.12 or otherwise in accordance with this Agreement, Sections 7.2, 7.3 and 7.4 may also, so long as any such amendment does not materially change the relative economic interests of the Partners, be amended at any time by the General Partner if necessary, in the opinion of tax counsel to the Partnership, to comply with such regulations or any applicable Law.
- 7.9 **Survival** Sections 7.6 and 7.7 shall be interpreted to apply to Partners and former Partners and shall survive the Transfer of a Partner's Units and the termination, dissolution, liquidation and winding up of the Partnership and, for this purpose to the extent not prohibited by applicable Law, the Partnership shall be treated as continuing in existence.
- 7.10 **Mexican Income Tax Law** With respect to Sections 7.4.1 to 7.4.6 (inclusive), 7.4.9, 7.4.11 and 7.5, for Mexican tax purposes, Mexican income tax law shall apply to any Partner that is resident in Mexico for tax purposes.
- 7.11 **Business Combination Agreement Holder Representative Matters** Section 7.6(f) of the Business Combination Agreement is hereby incorporated by reference into this Agreement and, without limiting the generality of the foregoing, each Existing Company Unitholder and Closing Company Unitholder hereby acknowledges and agrees that amounts otherwise payable to such Existing Company Unitholder or Closing Company Unitholder hereunder may instead be remitted to the Holder Representative (as defined in the Business Combination Agreement) in the circumstances, and at the times and in the amounts, set forth in such section of the Business Combination Agreement.

## SECTION 8

### BOOKS OF ACCOUNT, ACCOUNTING REPORTS, TAX RETURNS, FISCAL YEAR, BANKING

#### 8.1 **Books, Records and Reports; Information Rights.**

- 8.1.1 *Maintenance of books and records* At all times during the continuance of the Partnership, the Partnership shall prepare and maintain separate books of account for the Partnership in accordance with GAAP. The Partnership shall keep correct and complete books and records of its accounts and transactions and minutes of the proceedings of its Partners. The books and records of the Partnership may be in written form or in any other form which can be converted within a reasonable time into written form for visual inspection. Minutes shall be recorded in written form, but may be maintained in the form of a reproduction. The books and records of the Partnership maintained by the General Partner and shall be available for examination by any Partner, or its duly-authorized representatives, during regular business hours, upon ten (10) Business Days' written notice to the General Partner, for any purpose reasonably related to the Partner's ownership interest in the Partnership.

- 8.1.2 **Limited Partner Right to Agreement** Each Limited Partner shall have the right to receive, for a purpose reasonably related to such Limited Partner's interest as a Partner in the Partnership, upon reasonable written demand stating the purpose of such demand and at such Partner's own expense, a copy of the Certificate and this Agreement and all amendments thereto, together with a copy of the executed copies of all powers of attorney pursuant to which the Certificate and this Agreement and all amendments thereto have been executed.
- 8.2 **Tax returns and tax information** The General Partner shall cause to be prepared and filed all necessary U.S. federal, state, local and non-U.S. tax returns for the Partnership, including making any tax elections. At the Partnership's expense, the General Partner, within 120 days of the close of the Fiscal Year, shall use commercially reasonable efforts to furnish to each Partner that was a Partner during such Fiscal Year a Schedule K-1 and such other tax information reasonably required for U.S. federal, state and local income tax reporting purposes. The Partnership shall use commercially reasonable efforts to provide to each Person that was a Partner during the Fiscal Year (a) by May 15th, August 15th and November 15th of such Fiscal Year, with an estimate of the taxable income, gains, deductions, losses and other items for, respectively, the first, second and third fiscal quarters that such Person will be required to include in its taxable income and (b) by March 1st of such Fiscal Year, with an estimate of the taxable income, gains, deductions, losses and other items of such Person to be reflected on the Schedule K-1 of such Person for the prior Fiscal Year (it being understood such estimated information is subject to change based on the final Schedule K-1 made available by the Partnership). The Partnership also shall provide the Partner with such other information as may be reasonably requested for purposes of allowing the Partners to prepare and file their own tax returns; *provided* that, any costs or expenses with respect to the foregoing shall be borne by the requesting Partner.
- 8.3 **Tax Elections.** The General Partner shall make the following elections on the appropriate tax returns and shall not rescind them without the prior written consent of the Requisite Continuing Partners (provided that, the election described in clause (ii) below cannot be rescinded without the prior written consent of all the Partners):
- (i) to adopt an appropriate U.S. federal income tax method of accounting and to keep the Partnership's books and records on such income-tax method;
  - (ii) to have in effect (and to cause each direct or indirect Subsidiary that is treated as a partnership for U.S. federal income tax purposes and over 50% owned and controlled by the Partnership to have in effect, to the extent eligible to do so) an election, pursuant to Section 754 of the Code (and any similar election for state or local tax purposes), to adjust the tax basis of Partnership properties, for the taxable year of the Partnership that includes the Effective Date and each subsequent taxable year in which an Exchange Transaction occurs; and
  - (iii) any other available election that the General Partner deems appropriate; provided that, for so long as the Continuing Partners collectively own at least 10% of the Units, the General Partner shall consult in good faith with the Continuing Partner Representative with respect to any material tax election with respect to the Partnership that could reasonably be expected to have a disproportionate (as compared to PubCo) and material adverse effect on the Continuing Partners, and not make such election without the Requisite Continuing Partners' prior written consent (which consent shall not be unreasonably withheld, delayed or conditioned).

No Partner may make an election for the Partnership to be excluded from the application of the provisions of subchapter K of chapter 1 of subtitle A of the Code or any similar provisions of applicable state Law, and no provision of this Agreement shall be construed to sanction or approve such an election.

#### 8.4 **Confidentiality**

- 8.4.1 *Confidential Information* Each of the Partners (other than PubCo) agrees to hold the Partner's Confidential Information in confidence and may not disclose or use such information except as otherwise authorized separately in writing by the General Partner. "**Confidential Information**" as used herein includes all non-public information concerning the Partnership or its Subsidiaries including, but not limited to, ideas, financial product structuring, business strategies, innovations and materials, all aspects of the Partnership's business plan, proposed operation and products, corporate structure, financial and organizational information, analyses, proposed partners, software code and system and product designs, employees and their identities, equity ownership, the methods and means by which the Partnership plans to conduct its business, all trade secrets, trademarks, tradenames and all intellectual property associated with the Partnership's business. With respect to each Partner, Confidential Information does not include information or material that: (i) before or after it has been disclosed to such Partner by the Partnership, becomes part of public knowledge, not as a result of any action or inaction of such Partner in violation of this Agreement; (ii) is approved for release by written authorization of the Chief Executive Officer, Chief Financial Officer or General Counsel of the Partnership or of PubCo, or any other officer designated by the General Partner and PubCo; (iii) is disclosed to such Partner or their representatives by a third party not, to the knowledge of such Partner, in violation of any obligation of confidentiality owed to the Partnership, PubCo or any of their respective Subsidiaries with respect to such information; or (iv) is or becomes independently developed by such Partner or their respective representatives without use of or reference to the Confidential Information.
- 8.4.2 *Limited Right to Disclose Confidential Information* Solely to the extent it is reasonably necessary or appropriate to fulfil its obligations or to exercise its rights under this Agreement, each of the Partners may disclose Confidential Information to its Subsidiaries, Affiliates, partners, directors, officers, employees, counsel, advisers, consultants, outside contractors and other agents, on the condition that such Persons keep the Confidential Information confidential to the same extent as such Partner is required to keep the Confidential Information confidential; *provided that*, such Partner shall remain liable with respect to any breach of this Section 8.4 by any such Subsidiaries, Affiliates, partners, directors, officers, employees, counsel, advisers, consultants, outside contractors and other agents (as if such Persons were party to this Agreement for purposes of this Section 8.4).
- 8.4.3 *Further Right to Disclose Confidential Information* Notwithstanding anything herein to the contrary, each of the Partners may disclose Confidential Information:
- (a) to the extent that such Partner is required by Law (by oral questions, interrogatories, request for information or documents, subpoena, civil investigative demand or similar process) to disclose any of the Confidential Information,
  - (b) for purposes of reporting to its stockholders and direct and indirect equity holders (each of whom are bound by customary confidentiality obligations) the performance of the Partnership and its Subsidiaries and for purposes of including applicable information in its financial statements to the extent required by applicable Law or applicable accounting standards; or

(c) to any *bona fide* prospective purchaser of the equity or assets of a Partner, or the Common Units held by such Partner (*provided*, in each case, that such Partner determines in good faith that such prospective purchaser would be a Permitted Transferee), or a prospective merger partner of such Partner (*provided* that, (i) such Persons will be informed by such Partner of the confidential nature of such information and shall agree in writing to keep such information confidential in accordance with the contents of this Agreement and (ii) each Partner will be liable for any breaches of this Section 8.4 by any such Persons (as if such Persons were party to this Agreement for purposes of this Section 8.4)).

8.4.4 *PubCo's Use of Confidential Information* Notwithstanding any of the foregoing, nothing in this Section 8.4 will restrict in any manner the ability of PubCo to comply with its disclosure obligations under Law, and the extent to which any Confidential Information is necessary or desirable to disclose.

## SECTION 9 UNITS

### 9.1 **Units**

9.1.1 *Units in the Partnership* Interests in the Partnership shall be represented by Units. At the execution of this Agreement, the Units are comprised of only Common Units, which includes the Restricted Common Units, comprised of Series 1 RCUs, Series 2 RCUs, Series 3 RCUs, and PMEL RCUs.

(a) Restricted Common Units In connection with the transactions contemplated by the Business Combination Agreement, (a) each Partner that is an Earnout Participant (as defined in the Business Combination Agreement) shall be issued Series 1 RCUs, Series 2 RCUs and Series 3 RCUs, and (b) certain PMEL Post-Combination Unitholders shall be issued the PMEL RCUs. All such Restricted Common Units shall be outstanding as of the Effective Time. Immediately following the Effective Time, no fractional Restricted Common Unit will remain outstanding and any fractional Restricted Common Unit held by a Partner shall be rounded down to the nearest whole number. For the avoidance of doubt, the terms contained in a PMEL Award Agreement, including with respect to vesting and forfeiture, shall be read for all relevant purposes hereunder as if they were grants of the corresponding number of PMEL RCUs into which the PMEL Interests were substituted by virtue of the Business Combination Agreement and the General Partner shall have the authority to reasonably interpret the provisions of any PMEL Award Agreements in accordance with the foregoing principle for all purposes of this Agreement.

(b) Allocation of Restricted Common Units Immediately after giving effect to the transactions contemplated by the Business Combination Agreement, each Partner holds the number of Common Units and the number of Series 1 RCUs, Series 2 RCUs, Series 3 RCUs, and PMEL RCUs set forth opposite such Partner's name on Schedule I attached hereto.

9.1.2 *Further Issuances* Subject to Section 9.5, the General Partner in its sole discretion may establish and issue, from time to time in accordance with such procedures as the General Partner shall determine from time to time, additional Units, in one or more classes or series of Units, or other Partnership securities, at such price, and with such designations, preferences and relative, participating, optional or other special rights, powers and duties (which may be senior to existing Units, classes and series of Units or other Partnership securities), as shall be determined by the General Partner without the approval of any Partner, including:

- (a) the right of such Units to share in Profits and Losses or items thereof;
- (b) the right of such Units to share in Partnership Distributions;
- (c) the rights of such Units upon dissolution and winding up of the Partnership;
- (d) whether, and the terms and conditions upon which, the Partnership may or shall be required to redeem such Units (including sinking fund provisions);
- (e) whether such Units are issued with the privilege of conversion or exchange and, if so, the terms and conditions of such conversion or exchange;
- (f) the terms and conditions upon which such Units will be issued, evidenced by certificates and assigned or transferred;
- (g) the method for determining the Common Percentage Interest as to such Units;
- (h) the terms and conditions of the issuance of such Units (including the amount and form of consideration, if any, to be received by the Partnership in respect thereof, the General Partner being expressly authorized, in its sole discretion, to cause the Partnership to issue such Units for less than Fair Market Value); and
- (i) the right, if any, of the holder of such Units to vote on Partnership matters, including matters relating to the relative designations, preferences, rights, powers and duties of such Units;

provided that notwithstanding anything to the contrary in this Agreement, no Partnership securities ranking senior to the Common Units held by PubCo (including with respect to voting, liquidation and distribution rights) shall be authorized or issued without PubCo's prior written consent.

Notwithstanding any other provision of this Agreement (except as set forth in the immediately preceding proviso), the General Partner in its sole discretion, without the approval of any other Partner, is authorized to:

- (a) issue Units or other Partnership securities of any newly established class or any existing class to Partners or other Persons who may acquire an interest in the Partnership, including Equity Interests which constitute a "profits interest" to Persons within the meaning of IRS Revenue Procedures 93-27 and 2001-43 and IRS Notice 2005-43 and which will be issued with the intention that under current interpretations of the Code the recipient will not realize income upon the issuance of such Equity Interests, and that neither the Partnership nor any Partner is entitled to any deduction either immediately or through depreciation or amortization as a result of the issuance of such Equity Interest;
- (b) amend this Agreement to reflect the creation of any such new class, the issuance of Units or other Partnership securities of such class, and the admission of any Person as a Partner which has received Units or other Partnership securities; and



(c) effect the combination, subdivision and/or reclassification of outstanding Units as may be necessary or appropriate to give economic effect to equity investments in the Partnership by PubCo that are not accompanied by the issuance by the Partnership to PubCo of additional Units and to update the books and records of the Partnership accordingly.

- 9.1.3 *References to Units* Except as expressly provided in this Agreement to the contrary, any reference to “Units” shall include the Common Units and Units of any other class or series that may be established in accordance with this Agreement. All Units of a particular class shall have identical rights in all respects as all other Units of such class, except in each case as otherwise specified in this Agreement.
- 9.1.4 *Limitation on Issuances* Notwithstanding anything to the contrary in this Agreement, the General Partner shall not cause or permit the Partnership to issue, or authorize the issuance of, any Units unless PubCo has a sufficient number of Class A Common Shares authorized, available and reserved for issuance upon an exchange of such newly issued Units for Class A Common Shares pursuant to an Exchange Transaction.
- 9.1.5 *Restriction on Number of “Partners” for Treasury Regulations Purposes* In addition to the restriction set out in Section 2.12, notwithstanding anything to the contrary in this Agreement, the Partnership shall not, and the General Partner shall not cause the Partnership to, issue any Units if such issuance would result in the Partnership having more than seventy-five (75) “partners”, within the meaning of Treasury Regulations Section 1.7704-1(h) (but looking through all entities treated as transparent or flow-throughs for U.S. federal income tax purposes) or if the Partnership already has more than seventy-five (75) “partners” but such issuance would further increase the number of “partners” in the Partnership; *provided* that, for such purposes, the Partnership and the General Partner shall be entitled to assume that each person who is a Partner immediately before the Effective Time is treated as a single partner within the meaning of Treasury Regulations Section 1.7704-1(h) (but looking through all entities treated as transparent or flow-throughs for U.S. federal income tax purposes), unless otherwise required by applicable Law.
- 9.2 **Register** The books and records of the Partnership shall be the definitive record of ownership of each Unit and all relevant information with respect to each Partner. Unless the General Partner in its sole discretion shall determine otherwise, Units shall be uncertificated and recorded in the books and records of the Partnership.
- 9.3 **Registered Partners** The Partnership shall be entitled to recognize the exclusive right of a Person registered on its records as the owner of Units for all purposes and shall not be bound to recognize any equitable or other claim to or interest in Units on the part of any other Person, whether or not it shall have express or other notice thereof, except as otherwise provided by the Act or other applicable Law.
- 9.4 **Forfeiture of Common Units.** Each PMEL Post-Combination Unitholder hereby agrees that any Common Units (for the avoidance of doubt, including any Common Units which were formerly PMEL RCUs and were converted into Common Units pursuant to this Agreement) which, by virtue of the transactions contemplated by the Business Combination Agreement, were received in substitution for PMEL Interests held by a PMEL Award Recipient, shall be subject to the same forfeiture provisions as contained in any corresponding PMEL Award Agreement. The General Partner shall have the authority pursuant to Section 9.4 of this Agreement to cancel and extinguish for no consideration, automatically and without the consent of the applicable PMEL Post-Combination Unitholder (or PMEL Award Recipient), any Common

Units (and PubCo shall cancel and extinguish for no consideration the Acquiror Class B PMEL RSRs or the Class B Common Shares, as the case may be, held by such PMEL Post-Combination Unitholder (or PMEL Award Recipient), on a one-for-one basis, without the consent of the applicable PMEL Post-Combination Unitholder (or PMEL Award Recipient)) to the same extent the corresponding PMEL Interests would have been subject to forfeiture under the corresponding PMEL Award Agreement.

## 9.5 **Issuances, Repurchases and Redemptions, Recapitalizations**

### 9.5.1 *Issuances by PubCo.*

(a) Subject to Section 9.5.1(b) and the Exchange Agreement, if, at any time after the Closing Date, PubCo sells or issues Class A Common Shares or any other Equity Interests of PubCo (other than Class B Common Shares):

- (i) the Partnership shall concurrently issue to PubCo an equal number of Common Units (if PubCo issues Class A Common Shares), or an equal number of such other Equity Interests of the Partnership corresponding to the Equity Interests issued by PubCo (if PubCo issues Equity Interests other than Class A Common Shares), and with substantially the same rights to dividends and Distributions (including Distributions upon liquidation) and other economic rights as those of such Equity Interests of PubCo so issued; and
- (ii) PubCo shall concurrently contribute to the Partnership the net proceeds or other property received by PubCo, if any, for such Class A Common Share or other Equity Interest.

(b) Notwithstanding anything to the contrary contained in Section 9.5.1(a) or Section 9.5.1(c), this Section 9.5.1 shall not apply to:

- (i) the issuance and distribution to holders of Class A Common Shares or other Equity Interests of PubCo of rights to purchase Equity Interests of PubCo under a “poison pill” or similar shareholder rights plan (and upon exchange of Common Units for Class A Common Shares pursuant to the Exchange Agreement, such Class A Common Shares will be issued together with a corresponding right under such plan); or
- (ii) the issuance under PubCo’s employee benefit plans of any warrants, options, stock appreciation right, restricted stock, restricted stock units, performance based award or other rights to acquire Equity Interests of PubCo,

but Section 9.5.1 shall, in each of the foregoing cases, apply to the issuance of Equity Interests of PubCo in connection with the exercise or settlement of such warrants, options, stock appreciation right, restricted stock units, performance based awards or other rights to acquire Equity Interests of PubCo.

(c) Exercise or Conversion of PubCo Equity Interests In the event any outstanding Equity Interest of PubCo is exercised or otherwise converted and, as a result, any Class A Common Shares or other Equity Interests of PubCo are issued (including as a result of the exercise of warrants of PubCo):

- (i) the corresponding Equity Interests issued by the Partnership, if any, shall be similarly exercised or otherwise converted, if applicable;
- (ii) an equivalent number of Common Units or equivalent Equity Interests of the Partnership shall be issued to PubCo as required by the first sentence of Section 9.5.1; and
- (iii) PubCo shall concurrently contribute to the Partnership the net proceeds received by PubCo from any such exercise or conversion.

(d) Issuance of Debt If at any time PubCo or any of its Subsidiaries (other than the Partnership and its Subsidiaries) issues any securities in respect of or otherwise incurs indebtedness for borrowed money (“**Debt**”), PubCo or such Subsidiary shall Transfer to the Partnership the net proceeds received by PubCo or such Subsidiary, as applicable, in exchange for such Debt in a manner that burdens the Partnership with the repayment of such Debt (including for example through a “back-to-back” loan from the PubCo or such Subsidiary to the Partnership).

9.5.2 Issuance of New Common Units to PubCo Except pursuant to the Exchange Agreement, (a) the Partnership may not issue any additional Common Units to PubCo or any of its Subsidiaries (other than Subsidiaries of the Partnership) unless substantially simultaneously therewith PubCo or such Subsidiary issues or Transfers an equal number of newly-issued Class A Common Shares (or relevant Equity Interest of such Subsidiary) to another Person or Persons and contributes the net proceeds therefrom to the Partnership, and (b) the Partnership may not issue any other Equity Interests of the Partnership to PubCo or any of its Subsidiaries (other than Subsidiaries of the Partnership) unless substantially simultaneously therewith PubCo or such Subsidiary issues or Transfers, to another Person, an equal number of newly-issued shares of Equity Interests of PubCo or such Subsidiary with substantially the same rights to dividends and Distributions (including Distributions upon liquidation) and other economic rights as those of such Equity Interests of the Partnership and contributes the net proceeds therefrom to the Partnership.

### 9.5.3 Repurchases and Redemptions

(a) Repurchases and Redemptions by PubCo Neither PubCo nor any of its Subsidiaries (other than the Partnership and its Subsidiaries) may redeem, repurchase or otherwise acquire:

- (i) Class A Common Shares pursuant to a PubCo Board approved repurchase plan or program (or otherwise in connection with a transaction approved by the PubCo Board) unless substantially simultaneously therewith the Partnership redeems, repurchases or otherwise acquires from PubCo or such Subsidiary an equal number of Common Units for the same price per security, if any, or
- (ii) any other Equity Interests of PubCo or any of its Subsidiaries (other than the Partnership and its Subsidiaries) pursuant to a PubCo Board approved repurchase plan or program (or otherwise in connection with a transaction approved by the PubCo Board) unless substantially simultaneously therewith the Partnership redeems, repurchases or otherwise acquires from PubCo or such Subsidiary an equal number of the corresponding class or series of Equity Interests of the Partnership with the same rights to dividends and Distributions (including Distributions upon liquidation) and other economic rights as those of such Equity Interests of PubCo or such Subsidiary for the same price per security, if any.

(b) Repurchases and Redemptions by the Partnership Subject to Section 9.6, the Partnership may not redeem, repurchase or otherwise acquire:

- (i) any Common Units from PubCo or any of its Subsidiaries (other than the Partnership and its Subsidiaries) unless substantially simultaneously PubCo or such Subsidiary redeems, repurchases or otherwise acquires pursuant to a PubCo Board approved repurchase plan or program (or otherwise in connection with a transaction approved by the PubCo Board) an equal number of Class A Common Shares for the same price per security from holders thereof; or
- (ii) any other Equity Interests of the Partnership from PubCo or any of its Subsidiaries (other than the Partnership and its Subsidiaries) unless substantially simultaneously PubCo or such Subsidiary redeems, repurchases or otherwise acquires pursuant to a PubCo Board approved repurchase plan or program (or otherwise in connection with a transaction approved by the PubCo Board) for the same price per security an equal number of Equity Interests of PubCo (or such Subsidiary) of a corresponding class or series with substantially the same rights to dividends and Distributions (including Distributions upon liquidation) and other economic rights as those of such Equity Interests of PubCo or such Subsidiary.

(c) Cashless Redemptions Notwithstanding the foregoing Section 9.5.1 and Section 9.5.2, to the extent that any consideration payable by PubCo in connection with the redemption, repurchase or acquisition of Class A Common Shares or other equity securities of PubCo or any of its Subsidiaries (other than the Partnership and its Subsidiaries) consists (in whole or in part) of Class A Common Shares or such other Equity Interests (including in connection with the cashless exercise of an option or warrant (or other convertible right or security)), other than under PubCo's employee benefit plans for which there are no corresponding Common Units or other Equity Interests of the Partnership, the redemption, repurchase or acquisition of the corresponding Common Units or other Equity Interests of the Partnership shall be effectuated in a substantially similar manner.

#### 9.5.4 *Equity Subdivisions and Combinations*

(a) Limitation on the Partnership The Partnership shall not in any manner effect any subdivision (by any equity split, equity distribution, reclassification, recapitalization or otherwise) or combination (by reverse equity split, reclassification, recapitalization or otherwise) of the outstanding Equity Interests of the Partnership unless accompanied by an identical subdivision or combination, as applicable, of the outstanding related class or series of Equity Interest of PubCo, with corresponding changes made with respect to any other exchangeable or convertible Equity Interests of the Partnership and PubCo.

(b) Limitation on PubCo PubCo shall not in any manner effect any subdivision (by any equity split, equity distribution, reclassification, recapitalization or otherwise) or combination (by reverse equity split, reclassification, recapitalization or otherwise) of any class or series of Equity Interest of PubCo, unless accompanied by an identical subdivision or combination, as applicable, of the outstanding related class or series of Equity Interests of the Partnership, with corresponding changes made with respect to any applicable exchangeable or convertible Equity Interests of the Partnership and PubCo.

(c) **Maintenance of one-to-one ratio of Common Units to PubCo's Class A Common Shares** For the avoidance of doubt, but subject to Section 9.1, Section 9.2, Section 9.5 and Section 9.6, the Partnership and the General Partner shall be permitted to undertake all actions, including an issuance, redemption, reclassification, distribution, division or recapitalization, with respect to the Common Units or the Restricted Common Units as the General Partner determines is necessary to maintain at all times a one-to-one ratio between (i) the number of Common Units owned by PubCo, directly or indirectly, and the number of outstanding Class A Common Shares; and (ii) the number of outstanding Class B Common Shares held, directly or indirectly, by any Partner and the number of Common Units (other than Restricted Common Units) held (directly or indirectly) by such Partner, disregarding for purposes of maintaining the one-to-one ratios in clause (i):

- (i) options, rights or securities of PubCo issued under any plan involving the issuance of any Equity Interests that are convertible into or exercisable or exchangeable for Class A Common Shares,
- (ii) treasury stock, or
- (iii) preferred stock or other debt or equity securities (including warrants, options or rights) issued by PubCo that are convertible into or exercisable or exchangeable for Class A Common Shares (but in each case prior to such conversion, exercise or exchange).

9.5.5 *Redemptions pursuant to the Exchange Agreement* If the Partnership is obliged, pursuant to Section 2.2 of the Exchange Agreement, to cancel a number of Common Units surrendered to it by a Limited Partner (a "**Surrendering Partner**"), those surrendered Common Units shall be treated as redeemed by the Partnership and shall be cancelled immediately upon redemption. The recorded balance of the Equity Contribution and (if any) the Advance of such Limited Partner shall each be reduced, on that surrender and redemption, by a proportionate amount (equal to the proportion which the number of surrendered Common Units bears to the total number of Common Units held by that Limited Partner immediately prior to that surrender (such proportion the "**Exchanged Proportion**")), and the recorded balance of the Equity Contribution and Advance of PubCo shall each be correspondingly and automatically increased by the same respective amounts. The Partnership shall issue a number of Common Units to PubCo, as required by Section 2.2 of the Exchange Agreement, equal to the number of Common Units surrendered by the Surrendering Partner and redeemed by the Partnership and on the issuance of such Common Units a proportion of the Surrendering Partner's right to the repayment of its Advance equal to the Exchanged Proportion shall hereby be assigned to PubCo.

## 9.6 **Restricted Common Units.**

9.6.1 *Restricted Common Units and Vesting* Each Restricted Common Unit will be held in accordance with this Agreement unless and until a Vesting Event occurs with respect to such Restricted Common Unit. Upon the occurrence of a Vesting Event, on the Conversion Date, each applicable Restricted Common Unit with respect to which a Vesting Event has occurred shall be converted immediately and automatically, without any further action on the part of the holder thereof or any other person (including the Partnership, the General Partner and PubCo) into a Common Unit, with all rights and privileges of a Common Unit under this Agreement from and

after the Conversion Date, subject in all respects to Section 9.4. Notwithstanding anything to the contrary contained in this Agreement or the Exchange Agreement, no Partner shall be permitted to effect an Exchange Transaction with respect to any Restricted Common Units, and in no event shall the Partnership or PubCo effect an Exchange Transaction with respect to any Restricted Common Unit unless and until a Vesting Event and Conversion Date has occurred with respect to such Restricted Common Unit and it has been converted to a Common Unit in accordance with the terms hereof. For the avoidance of doubt and without limiting the immediately foregoing sentence, in the event that a Vesting Event, Conversion Date and conversion into Common Unit has occurred in respect of a Restricted Common Unit, the Partnership and PubCo may effect an Exchange of such then converted Common Unit in accordance with this Agreement and the Exchange Agreement.

- 9.6.2 *HSR Act & Conversion* Notwithstanding anything to the contrary contained in this Agreement, if, upon the occurrence of a Vesting Event, a filing is required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 of the United States of America, and the rules and regulations promulgated thereunder (“**HSR Act**”), for the immediate conversion of any Restricted Common Unit into a Common Unit, then the Conversion Date with respect to each such Restricted Common Unit shall be delayed until the earlier of (i) such time as the required filing under the HSR Act has been made and the waiting period applicable to such conversion under the HSR Act shall have expired or been terminated or (ii) such filing is no longer required, at which time such conversion shall automatically occur without any further action by the holder of any such Restricted Common Unit. Each of the Partners and PubCo agree to promptly take all actions required to make such filing under the HSR Act and the filing fee for such filing shall be paid by the Partnership.
- 9.6.3 *Issuance on Conversion* On the applicable Conversion Date for each Restricted Common Unit that is not a PMEL RCU, PubCo shall issue to each Continuing Partner that holds a Acquiror Class B Earnout RSR (as defined in the Business Combination Agreement) that vests on such Conversion Date, one Class B Common Share. On the applicable Conversion Date for each Restricted Common Unit that is a PMEL RCU, PubCo shall issue to each PMEL Post-Combination Unitholder that holds an Acquiror Class B PMEL RSR that vests on such Conversion Date, one Class B Common Share. PubCo hereby agrees to reserve for issuance at all times an adequate number of Class B Common Shares to permit the issuance of all Class B Common Shares assuming (x) all of the Acquiror Class B Earnout RSRs were to vest under the terms of the Business Combination Agreement and (y) all of the PMEL Post-Combination Unitholders’ Acquiror Class B PMEL RSRs were to vest under their applicable terms.
- 9.6.4 *Cancellation of Restricted Common Units*
- 9.6.5 To the extent that, in the case of the Restricted Common Units that are not PMEL RCUs, by the Earnout Expiration Date (as defined in the Business Combination Agreement), a Vesting Event has not occurred with respect to a Restricted Common Unit, and such Restricted Common Unit has not vested and converted into a Common Unit, then as of the Earnout Expiration Date, immediately and without any further action under this Agreement, on such date, any such Restricted Common Units outstanding under this Agreement shall be cancelled and extinguished for no consideration. To the extent that a PMEL RCU is forfeited pursuant to the terms of the applicable PMEL Agreement (with the terms of such agreement as applied to the PMEL RCUs in accordance with the final sentence of Section 9.4), immediately and without any further action under this Agreement, on the date of forfeiture, such PMEL RCU shall be cancelled and extinguished for no consideration. Upon the cancellation and extinguishment of any Restricted Common Unit pursuant to this Section 9.6.5, PubCo shall cancel and extinguish for no consideration the corresponding Acquiror Class B Earnout RSR or Acquiror Class B PMEL RSR on a one-for-one basis, without the consent of the applicable holder thereof.

- 9.6.6 *U.S. Tax Treatment* The parties hereto intend that, for U.S. federal income tax purposes, (i) the Restricted Common Units received by the Continuing Partners in connection with the Business Combination Agreement not be treated as being received in connection with the performance of services and (ii) no such Partner be treated as having taxable income or gain as a result of such receipt of such Restricted Common Units or as a result of holding any such Restricted Common Units at the time of any Vesting Event (other than as a result of corrective allocations made pursuant to Section 7.4.10) and the Partnership shall prepare and file all tax returns consistent therewith unless otherwise required by a “determination” within the meaning of Section 1313(a) of the Code.

## SECTION 10 TRANSFER RESTRICTIONS

### 10.1 Transfers of Units

- 10.1.1 *Restriction on Transfers* Except as otherwise agreed to in writing between the General Partner and the applicable Partner and reflected in the books and records of the Partnership or as otherwise provided in this Section 10, but without limiting the Lock-Up Agreement, no Partner may Transfer all or any portion of its Units or other interest in the Partnership (or beneficial interest therein) without the prior consent of the General Partner, which consent may be given or withheld, or made subject to such conditions (including the receipt of such legal opinions and other documents that the General Partner may require) as are determined by the General Partner, in each case in the General Partner’s sole discretion, and which consent may be in the form of a plan or program entered into or approved by the General Partner, in its sole discretion. Any such determination in the General Partner’s sole discretion in respect of Units shall be final and binding. Such determinations need not be uniform and may be made selectively among Partners, whether or not such Partners are similarly situated, and shall not constitute the breach of any duty hereunder or otherwise existing at law, in equity or otherwise. Any purported Transfer of Units that is not in accordance with, or subsequently violates, this Agreement shall be, to the fullest extent permitted by law, null and void. If a Partner Transfers all or a portion of its Common Units to a Transferee in compliance with this Agreement, the Partner shall transfer to such Transferee an equal number of Class B Common Shares.
- 10.1.2 *Lock-Up Period* Each Partner hereby agrees and covenants that such Partner will not, during the Lock-Up Period, Transfer any Units in the Partnership or any equity interests of PubCo (including any Class A Common Shares or Class B Common Shares) received or retained as consideration under the Business Combination Agreement, including any securities held in escrow or otherwise issued or delivered after the Closing pursuant to the Business Combination Agreement (collectively, the “**Restricted Securities**”) (a “**Prohibited Transfer**”) except to the extent provided in Section 10.1.5 or any applicable restrictions on Transfer are waived in accordance with the Lock-Up Agreement. If any Prohibited Transfer is made or attempted contrary to the provisions of this Agreement, such purported Prohibited Transfer shall be null and void *ab initio*, and the Partnership and PubCo shall refuse to recognize any such purported transferee of the Restricted Securities as one of its equity holders for any purpose. In order to enforce this Section 10.1.2, the Partnership and PubCo may impose stop-transfer instructions with respect to the Restricted Securities of each Partner until the end of the Lock-Up Period, as well as include customary legends on any certificates for any of the Restricted Securities reflecting the restrictions under this Section 10.1.

- 10.1.3 *End of Lock-Up Period* Notwithstanding anything otherwise to the contrary in this Agreement, following the expiration of the Lock-Up Period, each Partner that is a Partner holding at least 3% of the Common Percentage Interest (excluding, for purposes of this calculation, Common Units then owned by PubCo or any Subsidiary of PubCo (if any)) may Transfer all or any portion of its Common Units in a Transfer that complies with Section 10.5, without the consent of the General Partner or any other Person.
- 10.1.4 *Exchange Transactions* Notwithstanding anything otherwise to the contrary in this Agreement, following the expiration of the Lock-Up Period, each Partner may Transfer Units in Exchange Transactions pursuant to, and in accordance with, the Exchange Agreement; *provided* that, in the case of any Partner other than a Partner holding at least 3% of the Common Percentage Interest (excluding, for purposes of this calculation, Common Units then owned by the PubCo (if any) or any Subsidiary of the PubCo (if any)), such Exchange Transactions shall be effected in compliance with reasonable policies that the General Partner may adopt or promulgate from time to time and advise the Partners of in writing (including policies requiring the use of designated administrators or brokers) in its reasonable discretion; *provided, further*, that if such policies conflict with the terms of the Exchange Agreement, the provisions of the Exchange Agreement shall apply in lieu thereof to any Exchange Transaction to the extent of such conflict.
- 10.1.5 *Family Group and Affiliate Transfers* Notwithstanding anything otherwise to the contrary in this Section 10.1, but subject to the limitations set forth herein and compliance with, and to the extent otherwise permitted by, the Lock-Up Agreement, an individual Partner may Transfer all or any portion of his, her or its Restricted Securities without consideration to (i) any member of his or her Family Group or (ii) any Affiliate of such Partner (including any direct or indirect partner, shareholder, equityholder of such Partner or any Affiliated investment fund or vehicle of such Partner or such Partner's direct or indirect partners, shareholders or equityholders), but excluding any Affiliate under this clause (ii) who operates or engages in a business which competes with the business of PubCo or the Partnership and (iii) to a trust solely for the benefit of such Partner and such Partner's Family Group (or a re-Transfer of such Restricted Securities by such trust back to such Partner upon the revocation of any such trust) or pursuant to the applicable Laws of descent or distribution among such Partner's Family Group, in each case, in a Transfer that complies with Section 10.5 (each of clauses (i)-(iii), an "**Exempt Transfer**"); *provided* that, (x) the restrictions contained in this Section 10 shall apply to an Exempt Transfer and (y) the restrictions contained in this Agreement will continue to apply to the Restricted Securities after any Exempt Transfer and each Transferee of Restricted Securities shall agree in writing, by entering into an appropriate supplemental agreement in such form and terms as the General Partner may reasonably specify, prior to and as a condition precedent to the effectiveness of such Exempt Transfer, to be bound by the provisions of this Agreement, without modification or condition, subject only to the consummation of such Exempt Transfer. Upon the Exempt Transfer of Restricted Securities, the transferor will deliver written notice to the Partnership, which notice will disclose in reasonable detail the identity of such Transferee(s) and shall include an executed original counterpart of this Agreement in a form acceptable to the General Partner. Notwithstanding the foregoing and any other term in this Agreement, (a) notice of such an Exempt Transfer shall be forthwith advertised in *Iris Oifigiúil* as so required by the Act, and until notice of such transfer is so advertised, the arrangement or transaction shall, for the purposes of the Act, be deemed to be of no effect, and (b) no party hereto shall avoid the provisions of this Agreement by making one or more Exempt Transfers to one or more Transferees and then disposing of all or any portion of such party's interest in such Transferee if such disposition would result in such Transferee ceasing to be a Permitted Transferee. Without limiting the Lock-Up Agreement, the General Partner may implement other policies and procedures to permit the Transfer of Restricted Securities by the Partners for personal planning purposes and any such Transfer effected in compliance with such policies and procedures shall not require the prior consent of the General Partner.



10.1.6 *Purported Transfers Void* Any Transfer or attempted Transfer of any Units in violation of any provision of this Agreement shall, to the fullest extent permitted by law, be null and void *ab initio*, and the Partnership will not record such Transfer on its books or treat any purported Transferee of such Units as the owner of such securities for any purpose.

10.2 **Mandatory Exchanges** The Partnership may, with the approval of the board of the General Partner, at any time and from time to time, without the consent of any Partner or other Person, cause to be Transferred to PubCo in an Exchange Transaction any and all Units, except for Units held by any Partner holding at least 3% of the Common Percentage Interest (excluding, for purposes of this calculation, Common Units then owned by PubCo or any Subsidiary of PubCo) (a “**Mandatory Exchange**”); *provided* that, if at any time after the expiration of the Lock-Up Period:

(a) (x) the General Partner is not a wholly-owned Subsidiary of PubCo or (y) for any other reason the Partnership’s nationally recognized tax advisors are unable to render an opinion to the Partnership at least at a “more likely than not” level of comfort that a wholly-owned Subsidiary of PubCo constitutes a “general partner” within the meaning of Treasury Regulations Section 1.7704-1(k)(1),

(b) the Partnership has more than seventy-five (75) “partners”, within the meaning of Treasury Regulations Section 1.7704-1(h) (but looking through all entities treated as transparent or flow-throughs for U.S. federal income tax purposes), and

(c) there are not binding agreements by and among Partners and the Partnership and/or its assignees to sell Units in a manner that will not cause the Partnership to be classified as a “publicly traded partnership” within the meaning of Section 7704 of the Code pursuant to one or more closings that will occur no later than seventy-five (75) days of expiration of the Lock-Up Period and that would cause the Partnership to have seventy-five (75) or fewer “partners”, within the meaning of Treasury Regulations Section 1.7704-1(h) (but looking through all entities treated as transparent or flow-throughs for U.S. federal income tax purposes), upon the consummation of the transactions contemplated by such agreements (including, agreements to tender Units to the Partnership or one or more purchasers approved by the Partnership),

then the Partnership shall promptly, and in any event within seventy-five (75) days of the expiration of the Lock-Up Period, cause a Mandatory Exchange to be effected with respect to a number of Partners holding less than 3% of the Common Percentage Interest (excluding, for purposes of this calculation, Common Units then owned by PubCo or any Subsidiary of PubCo) sufficient to cause the Partnership to have no more than seventy-five (75) “partners”, within the meaning of Treasury Regulations Section 1.7704-1(h) (but looking through all entities treated as transparent or flow-throughs for U.S. federal income tax purposes), upon the consummation of such Mandatory Exchange. Any Mandatory Exchange need not be uniform and may be made by the Partnership and PubCo selectively among Partners, whether or not such Partners are similarly situated; *provided* that, in the event that a tender offer, share exchange offer, take-over bid, recapitalization or similar transaction with respect to any Class A Common Shares (a “**PubCo Offer**”) is proposed by PubCo or is proposed to PubCo or its stockholders and approved

by the PubCo Board or is otherwise effected or to be effected with the consent or approval of the PubCo Board that would result in PubCo undergoing a Change of Control, then the General Partner shall require, and each Partner shall be deemed to effect, an Exchange Transaction with respect to any and all Units held by all Partners conditioned upon, and subject to, the consummation of such PubCo Offer or Change of Control, in each case, to the extent that such Partner has not effected an Exchange Transaction with respect to all of its Units prior to the consummation of such transaction.

### 10.3 **Approved Qualified Transaction**

- 10.3.1 *Drag-Along Right* In the event that the General Partner and the holders of a majority of the voting power of all outstanding capital stock of PubCo entitled to vote thereon approve a Qualified Transaction (the “**Approved Qualified Transaction**”), each other Partner (each, a “**Required Partner**”) agrees to Transfer all of such Required Partner’s Units in connection with such Approved Qualified Transaction (the “**Drag-Along Right**”) for an amount of consideration per Unit and corresponding Class B Common Share equal (before taking into account any rights such Required Partner may have under the Tax Receivable Agreement) to the amount of consideration to be received per Class A Common Share by the holders thereof (the “**Drag Price**”), and otherwise with respect to such Units on the same terms and conditions as apply to the Class A Common Shares in such Approved Qualified Transaction, with such modifications as are appropriate, as determined in good faith by the General Partner, solely to reflect the fact that Units and corresponding Class B Common Shares rather than Class A Common Shares will be Transferred in the first instance by such Partner. Any Transfer effected in connection with the Drag-Along Right shall be structured in the sole discretion of the General Partner and, without limitation to any other structure, the General Partner will use its reasonable best efforts expeditiously and in good faith to take all such actions and do all such things as are necessary or desirable to enable and permit the Partners to participate in such Approved Qualified Transaction to the same extent or on an economically equivalent basis as the holders of Class A Common Shares without discrimination; *provided* that, without limiting the generality of this sentence, the General Partner will use its reasonable best efforts expeditiously and in good faith to ensure that such Partners may participate in each such Approved Qualified Transaction without being required to have their Common Units and Class B Common Shares redeemed (or, if so required, to ensure that any such redemption shall be effective only upon, and shall be conditional upon, the closing of such Approved Qualified Transaction, or, as applicable, to the extent necessary to exchange the number of Common Units being repurchased).
- 10.3.2 *Drag-Along Notice* PubCo shall send written notice (the “**Drag-Along Notice**”) to the Partnership and the Required Partners at least thirty (30) days prior to the closing of the Approved Qualified Transaction notifying them that such Required Partners will be required to sell all (but not less than all) of their Units in such sale, and setting forth (i) a copy of the written proposal or agreement pursuant to which the Approved Qualified Transaction will be effected, (ii) the Drag Price, (iii) the terms and conditions of Transfer and payment and (iv) the date and location of and procedures for selling the Units. In the event that the information set forth in the Drag-Along Notice changes from that set forth in the initial Drag-Along Notice, a subsequent Drag-Along Notice shall be delivered by PubCo no less than seven (7) days prior to the closing of the Approved Qualified Transaction. Notwithstanding the foregoing, to the extent that any of the foregoing information to be included in the Drag-Along Notice is publicly available, PubCo shall not be required to include such information in the Drag-Along Notice or deliver a subsequent Drag-Along Notice. Each Required Partner shall thereafter be obligated to sell their Units and corresponding Class B Common Shares on the terms set forth in the Drag-Along Notice.

10.3.3 *Obligation of Required Partners to Sell* Upon receipt of a Drag-Along Notice, each Required Partner receiving such notice shall be obligated to sell all of its Units and corresponding Class B Common Shares in the Approved Qualified Transaction as contemplated by the Drag-Along Notice for the Drag Price, on the terms and conditions described in this Section 10.3, including by executing any document containing customary representations, warranties and agreements with respect to itself and its ownership of the Units or Class B Common Shares, as applicable, as requested by the General Partner in connection with the Approved Qualified Transaction, which representations, warranties, indemnities and agreements shall be substantially the same as those contained in any letter of transmittal to be executed by the holders of Class A Common Shares with such modifications as are appropriate, as determined in good faith by the General Partner, solely to reflect the fact that Units or Class B Common Shares, as applicable, rather than Class A Common Shares will be transferred by such Required Partner. The General Partner and each Required Partner shall cooperate in good faith in connection with the consummation of the Approved Qualified Transaction.

10.4 **Encumbrances**

No Partner or Assignee may create an Encumbrance with respect to all or any portion of its Units (or any beneficial interest therein) other than Encumbrances that run in favor of the Partner unless the General Partner consents in writing thereto, which consent may be given or withheld, or made subject to such conditions as are determined by the General Partner, in the General Partner's sole discretion (but without limiting the Lock-Up Agreement). Consent of the General Partner shall be withheld until the holder of the Encumbrance acknowledges the terms and conditions of this Agreement. Any purported Encumbrance that is not in accordance with this Agreement shall be, to the fullest extent permitted by law, null and void.

10.5 **Further Restrictions.**

10.5.1 *Terms for New Issuances* Units issued from time to time after the date of this Agreement, including Units issued under equity incentive plans of the Partnership or PubCo (or upon settlement of awards granted under such plans), may be subject to such additional or other terms and conditions, including with regard to vesting, forfeiture, minimum retained ownership and Transfer, as may be agreed between the General Partner and the applicable Partner and reflected in the books and records of the Partnership. Such requirements, provisions and restrictions need not be uniform and may be waived or released by the General Partner in its sole discretion with respect to all or a portion of the Units owned by any one or more Partners at any time and from time to time, and shall not constitute the breach of any duty hereunder or otherwise existing at law, in equity or otherwise.

10.5.2 *Prohibitions on Transfer* Notwithstanding any contrary provision in this Agreement, in no event may any Transfer of a Unit (other than, in each case, in accordance with the Exchange Agreement) be made by any Partner or Assignee if the General Partner determines that:

(a) such Transfer is made to any Person who lacks the legal right, power or capacity to own such Unit;

(b) except pursuant to an Exchange Transaction, such Transfer would require the registration of such transferred Unit or of any Class of Unit pursuant to any applicable U.S. federal or state securities Laws (including, without limitation, the Securities Act or the Exchange Act) or other non-U.S. securities Laws or would constitute a non-exempt distribution pursuant to applicable provincial or state securities Laws;

(c) such Transfer would cause (i) all or any portion of the assets of the Partnership to (A) constitute “plan assets” (under ERISA, the Code or any applicable Similar Law) of any existing or contemplated Partner, or (B) be subject to the provisions of ERISA, Section 4975 of the Code or any applicable Similar Law, or (ii) the General Partner or PubCo to become a fiduciary with respect to any existing or contemplated Partner, pursuant to ERISA, any applicable Similar Law, or otherwise;

(d) would result in a breach of Section 2.12;

(e) to the extent requested by the General Partner, the Partnership does not receive such legal and/or tax opinions and written instruments (including copies of any instruments of Transfer and such Assignee’s consent to be bound by this Agreement as an Assignee) that are in a form satisfactory to the General Partner, as determined in the General Partner’s sole discretion; *provided* that, no such legal and/or tax opinions shall be required for a Transfer by a Partner holding at least 3% of the Common Percentage Interest (excluding, for purposes of this calculation, Common Units then owned by PubCo (if any) or any Subsidiary of PubCo (if any));

(f) such Transfer would cause the Partnership to be treated as having more than seventy-five (75) “partners” within the meaning of Treasury Regulations Section 1.7704-1(h) but looking through all entities treated as transparent or flow-through for U.S. federal income tax purposes or if the Partnership already has more than seventy-five (75) “partners” but such issuance would further increase the number of “partners” in the Partnership;

(g) the General Partner shall reasonably determine that such Transfer would pose a material risk that the Partnership would be treated as a “**publicly traded partnership**” within the meaning of Section 7704 of the Code and the Treasury Regulations promulgated thereunder.

All determinations with respect to this Section 10.5 shall be made by the General Partner in its sole discretion; *provided, however*, that all such determinations with respect to a Partner holding at least 3% of the Common Percentage Interest (excluding, for purposes of this calculation, Common Units then owned by PubCo (if any) or any Subsidiary of PubCo (if any)) shall be made by the General Partner exercising its reasonable discretion.

10.5.3 *Treasury Regulation, Code and Partner Restrictions* In addition, notwithstanding any contrary provision in this Agreement, to the extent the General Partner shall reasonably determine that interests in the Partnership do not meet the requirements of Treasury Regulations Section 1.7704-1(h) (determined taking into account the rules of Treasury Regulations Section 1.7704-1(h)(3) in a taxable year, *provided* that, for such purpose, the Partnership and the General Partner shall assume that each Continuing Partner is treated as a single “partner” within the meaning of Treasury Regulations Section 1.7704-1(h) (determined taking into account the rules of Treasury Regulations Section 1.7704-1(h)(3)) unless otherwise required by applicable Law), in no event may any Transfer or assignment of Units by any Partner be made if such Transfer would (i) be considered to be effected on or through an “established securities market” or a “secondary market or the substantial equivalent thereof” as such terms are used in Treasury Regulations Section 1.7704-1, (ii) materially increase the possibility of the Partnership becoming a “publicly traded partnership” within the meaning of Section 7704 of the Code, or (iii) cause the Partnership to be treated as a “publicly traded partnership” within the meaning of Section 7704 of the Code or successor provision of the Code or to be treated as an association taxable as a corporation pursuant to the Code. For the avoidance of doubt, any Transfer that constitutes a

“block transfer” within the meaning of Treasury Regulation Section 1.7704-1(e)(2) shall not be considered to be (i) effected on or through an “established securities market” or a “secondary market or the substantial equivalent thereof” as such terms are used in Treasury Regulations Section 1.7704-1, (ii) materially increase the possibility of the Partnership becoming a “publicly traded partnership” within the meaning of Section 7704 of the Code, or (iii) cause the Partnership to be treated as a “publicly traded partnership.” Notwithstanding anything contrary in this Agreement, in no event may any Transfer, assignment of Units, or other transfer of beneficial entitlement to Units by any Partner be made if such Transfer would cause the Partnership to be treated as having more than seventy-five (75) “partners” within the meaning of Treasury Regulations Section 1.7704-1(h) but looking through all entities treated as transparent or flow-through for U.S. federal income tax purposes or if the Partnership already has more than seventy-five (75) “partners” but such issuance would further increase the number of “partners” in the Partnership.

- 10.5.4 *Timing of Permitted Transfers* Transfers of Units (other than pursuant to an Exchange Transaction) that are otherwise permitted by this Section 10 may only be made effective as of the first day of a fiscal quarter of the Partnership, unless the General Partner otherwise agrees.
- 10.5.5 *Void Transfers* To the fullest extent permitted by law, any Transfer in violation of this Section 10 (including the final sentence of Section 10.5.3) shall be deemed null and void *ab initio* and of no effect.
- 10.5.6 *Notice of the Transfer* Notwithstanding any other term in this Agreement, notice of any Transfer shall be forthwith set out in *Iris Oifigiúil* as so required by the Act, and until notice of such Transfer is so made, the arrangement or transaction shall, for the purposes of the Act, be deemed to be of no effect.
- 10.5.7 *Lock-Up Agreement* Notwithstanding any other term in this Agreement, nothing in this Agreement shall limit a Partner’s obligations pursuant to the Lock-Up Agreement.
- 10.6 **Admissions, Resignations and Removals**
- 10.6.1 No Partner will be removed or entitled to resign from being a Partner of the Partnership except in accordance with this Section 10.6 and Section 10.7 hereof. No Person may be admitted to the Partnership as an additional general partner or substitute general partner without the prior written consent of each incumbent General Partner, which consent may be given or withheld, or made subject to such conditions as are determined by each incumbent general partner, in each case in the sole discretion of each incumbent general partner. Any additional General Partner or substitute partners of the General Partner shall be admitted as a general partner of the Partnership by executing and delivering to the existing General Partner an appropriate supplement to this Agreement pursuant to which the Person agrees to be bound by the terms and conditions of this Agreement, as it may be amended from time to time, and thereafter shall be authorized to, and shall, continue the Partnership without dissolution. Except as otherwise provided in Section 10 or the Act, no admission, substitution, resignation or removal of a Partner will cause the dissolution of the Partnership. To the fullest extent permitted by law, any purported admission, resignation or removal that is not in accordance with this Agreement shall be null and void.
- 10.6.2 It is agreed that ProKidney GP Ireland Limited shall resign as general partner of the Partnership as and from the admission of ProKidney Corp. GP Limited to the Partnership, which admission shall take effect upon the Closing on the Effective Date. ProKidney GP Ireland Limited, as its final act as general partner of the Partnership immediately prior to the Closing, hereby approves the Post-Recapitalization Unit Issuance, if any such Post-Recapitalization Unit Issuance occurs pursuant to the Business Combination Agreement.

10.7 **Admission of Assignees as Substitute Limited Partners**

10.7.1 *Conditions for Admission as Limited Partner* A proposed assignee will become a substitute Limited Partner only if and when each of the following conditions is satisfied:

(a) the General Partner consents in writing to such admission, which consent may be given or withheld, or made subject to such conditions as are determined by the General Partner, in each case in the General Partner's sole discretion;

(b) if required by the General Partner, the General Partner receives written instruments (including copies of any instruments of Transfer, a notarised and apostilled copy (in English) of such assignee's governing documents (if the Assignee is not a natural person) and such Assignee's consent to be bound by this Agreement as a substitute Partner) that are in a form satisfactory to the General Partner (as determined in its sole discretion);

(c) if required by the General Partner, the General Partner receives an opinion of counsel satisfactory to the General Partner to the effect that such Transfer is in compliance with this Agreement and all applicable Law;

(d) if required by the General Partner, the parties to the Transfer, or any one of them, pays all of the Partnership's reasonable expenses connected with such Transfer (including the reasonable legal and accounting fees of the Partnership);

(e) notice of the Transfer is set out in *Iris Oifigiúil* as so required by the Act; and

(f) other than where the assignee is a Permitted Transferee of PubCo and such Transfer occurs after the expiration of the Lock-Up Period, the assignee enters into a written agreement with the Partnership and PubCo agreeing to be bound by the transfer restrictions in section 2 of the Lock-Up Agreement.

10.8 **Resignation and Removal of Partners** Subject to Section 10.6, if a Partner ceases to hold any Units, then such Partner shall cease to be a Partner and to have the power to exercise any rights or powers of a Partner of the Partnership, and shall be deemed to have resigned from the Partnership.

10.9 **Withholding** In the event any Transfer is permitted pursuant to this Section 10, the transferring parties shall demonstrate to the satisfaction of the General Partner either that no withholding is required in connection with such transfer under applicable U.S. federal, state or local or non-U.S. law (including under Sections 1445 or 1446 of the Code) or that any amounts required to be withheld in connection with such transfer under applicable U.S. federal, state or local or non-U.S. law (including under Section 1446 of the Code, other than by reason of Section 1446(f)(4)) have been so withheld.

- 10.10 **Allocations in Respect of Transferred Units.** With regard to PubCo’s acquisition of the New Company Common Units (as defined in the Business Combination Agreement), Profits or Losses shall be allocated to the Partners of the Partnership so as to take into account the varying interests of the Partners in the Partnership using an “interim closing of the books” method in a manner that complies with the provisions of Section 706 of the Code and the Treasury Regulations promulgated thereunder. If during any taxable year there is any other change in any Partner’s Units in the Partnership, the General Partner shall consult in good faith with the Continuing Partner Representative and the tax advisors to the Partnership and allocate the Profits or Losses to the Partners of the Partnership so as to take into account the varying interests of the Partners in the Partnership using an “interim closing of the books” method in a manner that complies with the provisions of Section 706 of the Code and the Treasury Regulations promulgated thereunder; provided, however, that such allocations may instead be made in another manner that complies with the provisions of Section 706 of the Code and the Treasury Regulations promulgated thereunder and that is selected by the General Partner (with the prior written consent of the Requisite Continuing Partners, not to be unreasonably withheld, conditioned or delayed); provided that, the Requisite Continuing Partners shall not have the consent right described in this Section 10.10 in the event that the Continuing Partners collectively own less than 10% of the Units.

## SECTION 11 DISSOLUTION AND WINDING UP OF THE PARTNERSHIP

- 11.1 **No dissolution** The Partnership shall not be dissolved by the admission of additional Partners or resignation of Partners in accordance with the terms of this Agreement. The Partnership may be dissolved, liquidated, wound up and terminated only pursuant to the provisions of this Section 11.
- 11.2 **Dissolution** The Partnership will be dissolved and its affairs wound up on the happening of any of the following events:
- (a) any event which makes it unlawful for the business of the Partnership to be carried on by the Partners;
  - (b) the written consent of all Partners; or
  - (c) the General Partner resolves to dissolve the Partnership in its reasonable discretion and with the consent of PubCo; provided that, in the event of a dissolution pursuant to this clause (c), the relative economic rights of each Class of Units immediately prior to such dissolution shall be preserved to the greatest extent practicable with respect to Distributions made to Partners pursuant to Section 11.4 below in connection with the winding up of the Partnership, taking into consideration tax and other legal constraints that may adversely affect one or more parties hereto and subject to compliance with applicable Laws and regulations, unless, and to the extent that, with respect to any Class of Units, holders of not less than 90% of the Units of such Class consent in writing to a treatment other than as described above.
- 11.3 **Effectiveness of Dissolution** Dissolution of the Partnership shall be effective on the day on which the event described in Section 11.2 occurs, but the Partnership shall not terminate until the winding up of the Partnership has been completed, and the assets of the Partnership have been distributed as provided in Sections 11.4.3 and 11.5.
- 11.4 **Liquidation** If the Partnership is dissolved pursuant to Section 11.2, the Partnership shall be liquidated and its business and affairs wound up in accordance with the Act and the following provisions:
- 11.4.1 *Liquidator.* The General Partner, or, if the General Partner is unable to do so, a Person selected by the General Partner, shall act as liquidator to wind up the Partnership (the “**Liquidator**”). The Liquidator shall have full power and authority to sell, assign, and encumber any or all of the Partnership’s assets and to wind up and liquidate the affairs of the Partnership in an orderly and business-like manner.

- 11.4.2 *Accounting.* As promptly as possible after dissolution and again after final liquidation, the Liquidator shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Partnership's assets, liabilities and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable.
- 11.4.3 *Distribution of Proceeds.* The Liquidator shall liquidate the assets of the Partnership and Distribute the proceeds of such liquidation in the following order of priority:
- (a) first, to the payment of all of the Partnership's debts and liabilities to its creditors (save for amounts owed to Partners, including Advances) and the expenses of liquidation;
  - (b) second, to the payment to the Partners of any debts (and any accrued interest thereon), other than Advances, owed by the Partnership to such Partners; and
  - (c) third, to the payment to the Partners *pro rata* based on the number of Participating Units then held by each Partner, and such payments to each Partner shall be applied with respect to such Partner first in reducing the balance of any Advances (if any) owing to that Partner, next in repaying the capital contributed by that Partner, and thereafter as a distribution of surplus to that Partner.
- 11.5 **Time for Liquidation** A reasonable amount of time shall be allowed for the orderly liquidation of the assets of the Partnership and the discharge of liabilities to creditors so as to enable the Liquidator to minimize the losses attendant upon such liquidation. Notwithstanding the provisions of Section 11.4, but subject to the order of priorities set forth therein, if upon dissolution of the Partnership the Liquidator determines that an immediate sale of part or all of the Partnership's assets would be impractical or would cause undue loss (or would otherwise not be beneficial) to the Partners, the Liquidator may, in its sole discretion, defer for a reasonable time the winding up of any assets except those necessary to satisfy Partnership liabilities (other than loans to the Partnership by Partners) and reserves. Subject to the order of priorities set forth in Section 11.4.3, the Liquidation Agent may, in its sole discretion, distribute to the Partners, in lieu of cash, either (i) all or any portion of such remaining Partnership assets in-kind in accordance with the provisions of Section 11.4.3, (ii) as tenants in common and in accordance with the provisions of Section 11.4.3, undivided interests in all or any portion of such Partnership assets or (iii) a combination of the foregoing. Any such Distributions in kind shall be subject to (x) such conditions relating to the disposition and management of such assets as the Liquidator deems reasonable and equitable and (y) the terms and conditions of any agreements governing such assets (or the operation thereof or the holders thereof) at such time. Any Partnership assets distributed in kind will first be written up or down to their Fair Market Value, thus creating Profit or Loss (if any), which shall be allocated in accordance with Section 7. The Liquidator shall determine the Fair Market Value of any property distributed in accordance with the valuation procedures set forth in Section 13.
- 11.6 **Termination** Upon completion of the Distribution of the assets of the Partnership as provided in Section 11.4.3(c) hereof, the Partnership shall be terminated and the Liquidator shall take such other actions as may be necessary to terminate the Partnership.



- 11.7 **Survival of Rights, Duties and Obligations** Dissolution, liquidation, winding up or termination of the Partnership for any reason shall not release any party from any Losses which at the time of such dissolution, liquidation, winding up or termination already had accrued to any other party or which thereafter may accrue in respect of any act or omission prior to such dissolution, liquidation, winding up or termination. For the avoidance of doubt, none of the foregoing shall replace, diminish or otherwise adversely affect any Partner's right to indemnification pursuant to Section 12.
- 11.8 **Recourse for Claims** Each Partner shall look solely to the assets of the Partnership for all Distributions with respect to the Partnership, such Partner's Capital Account, and such Partner's share of Profit or Loss and other items of income, gain, loss and deduction, and shall have no recourse therefor (upon dissolution or otherwise) against the General Partner, the Liquidator or any other Partner. No Partner shall have any right to demand or receive property other than cash upon dissolution and liquidation of the Partnership.
- 11.9 **Survival of Certain Provisions.** Notwithstanding anything to the contrary in this Agreement, the provisions of Sections 7.6, 12.1, 12.2, and 14.10 shall survive the termination of the Partnership.

## SECTION 12 LIABILITY AND INDEMNIFICATION

### 12.1 **Limitation of Liability**

- 12.1.1 To the extent permissible by law, each of the Partners and the Partnership hereby waives any and all fiduciary duties that, absent such waiver, may be implied by Applicable Law, and in doing so, acknowledges and agrees that the duties and obligation of each Covered Person to each other and to the Partnership are, to the extent permissible by law, only as expressly set forth in this Agreement. To the extent permissible by law, the provisions of this Agreement, to the extent that they restrict the duties and liabilities of a Covered Person otherwise existing at law or in equity, are agreed by the Partners to replace such other duties and liabilities of such Covered Person.
- 12.1.2 To the fullest extent permitted by law, no Partner or Continuing Partner Representative shall have duties (including fiduciary duties) to any of the Partners or to the Partnership, and in doing so, recognize, acknowledge and agree that their duties and obligations to one another and to the Partnership are only as expressly set forth in this Agreement; *provided, however*, that each Partner shall have the duty to act in accordance with the implied contractual covenant of good faith and fair dealing.
- 12.1.3 To the extent that, at law or in equity, any Partner (including PubCo) or the Continuing Partner Representative has any duties (including fiduciary duties) and liabilities relating thereto to the Partnership, to another Partner or to another Person who is a party to or is otherwise bound by this Agreement, none of the Partners (including PubCo) or the Continuing Partner Representative acting under this Agreement will, to the extent permitted by law, be liable to the Partnership, to any such other Partner or to any such other Person who is a party to or is otherwise bound by this Agreement, for their good faith reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they restrict or eliminate the duties and liabilities relating thereto of any Partner (including PubCo) or Continuing Partner Representative otherwise existing at law or in equity, are agreed by the Partners to replace to that extent such other duties and liabilities of the Partners or Continuing Partner Representative relating thereto (including PubCo).

- 12.1.4 The General Partner may consult with legal counsel, accountants and financial or other advisors selected by it, and any act or omission taken by the General Partner on behalf of the Partnership or in furtherance of the interests of the Partnership in good faith in reliance upon and in accordance with the advice of such Person as to matters the General Partner reasonably believes to be within such Person's professional or expert competence shall be conclusively presumed to have been done or omitted in good faith and in accordance with such opinion or advice, and the General Partner will be fully protected in so acting or omitting to act so long as such counsel or accountants or financial or other advisors were selected with reasonable care.
- 12.1.5 For the purposes of this Section 12.1.5, a “**Business Opportunities Exempt Party**” shall be (a) any Partner that is not a director, manager, officer or employee of the General Partner, PubCo or any of their respective Subsidiaries, in which case solely acting in their capacity as such, (b) any of their respective Affiliates (other than the Partnership, PubCo or any of their respective Subsidiaries), (c) any Person that was a Partner immediately before the Effective Time or any of its respective Affiliates (including its respective investors and equityholders and any associated Persons or investment funds or any of their respective portfolio companies or investments) or (d) any of the respective officers, managers, directors, agents, shareholders, Partners, and partners of any of the foregoing (but in each case excluding any director, manager, officer or employee of the General Partner, PubCo or any of their respective Subsidiaries solely acting in their capacity as such). The Partnership and each of the Partners, on its own behalf and on behalf of their respective Affiliates and equityholders, hereby renounces any interest or expectancy of the Partnership in, or in being offered an opportunity to participate in, business opportunities that are from time to time presented to any Business Opportunities Exempt Party and irrevocably waives any right to require any Business Opportunity Exempt Party to act in a manner inconsistent with the provisions of this Section 12.1.5. No Business Opportunities Exempt Party who acquires knowledge of a potential transaction, agreement, arrangement or other matter that may be an opportunity for PubCo, the Partnership or any of their respective Subsidiaries, Affiliates or equityholders shall have any duty to communicate or offer such opportunity to the Partnership and none of PubCo, the Partnership or any of their respective Subsidiaries, Affiliates or equityholders will acquire or be entitled to any interest or participation in any such transaction, agreement, arrangement or other matter or opportunity as a result of participation therein by a Business Opportunity Exempt Party. This Section 12.1.5 shall not apply to, and no interest or expectancy of the Partnership is renounced with respect to, any opportunity offered to any director or officer of PubCo or its Subsidiaries if such opportunity is expressly offered or presented to, or acquired or developed by, such Person solely in his or her capacity as a director or officer of PubCo or its Subsidiaries. No amendment or repeal of this Section 12.1.5 shall apply to or have any effect on the liability or alleged liability of any Business Opportunities Exempt Party for or with respect to any opportunities of which any such Business Opportunities Exempt Party becomes aware prior to such amendment or repeal. Any Person purchasing or otherwise acquiring any interest in any Units shall be deemed to have notice of and consented to the provisions of this Section 12.1.5. Neither the amendment or repeal of this Section 12.1.5, nor the adoption of any provision of this Agreement inconsistent with this Section 12.1.5, shall eliminate or reduce the effect of this Section 12.1.5 in respect of any business opportunity first identified or any other matter occurring, or any cause of action that, but for this Section 12.1.5, would accrue or arise, prior to such amendment, repeal or adoption. No action or inaction taken by any Business Opportunities Exempt Party in a manner consistent with this Section 12.1.5 shall be deemed to be a violation of any fiduciary or other duty owed to any Person.

12.2 **Indemnification.**

- 12.2.1 *Exculpation and Indemnification.* Notwithstanding any other provision of this Agreement, whether express or implied, to the fullest extent permitted by law, no Indemnitee shall be liable to the Partnership or any Partner for any act or omission in relation to the Partnership or this Agreement or any transaction contemplated hereby taken or omitted by an Indemnitee unless such Indemnitee's conduct constituted fraud, bad faith or willful misconduct. To the fullest extent permitted by law, as the same exists or hereafter be amended (but in the case of any such amendment, only to the extent that such amendment permits the Partnership to provide broader indemnification rights than such law permitted the Partnership to provide prior to such amendment), the Partnership shall indemnify any Indemnitee who was or is made or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding (brought in the right of the Partnership or otherwise), whether civil, criminal, administrative, arbitral or investigative, and whether formal or informal (hereinafter a "**Proceeding**"), including appeals, by reason of his or her or its status as an Indemnitee or by reason of any action alleged to have been taken or omitted to be taken by Indemnitee in such capacity, for and against all loss and liability suffered and expenses (including attorneys' fees), judgments, fines and amounts paid in settlement reasonably incurred by such Indemnitee in connection with such action, suit or proceeding, including appeals; provided that such Indemnitee shall not be entitled to indemnification hereunder if, but only to the extent that, such Indemnitee's conduct constituted fraud, bad faith or willful misconduct. Notwithstanding the preceding sentence, except as otherwise provided in Section 12.2.3, the Partnership shall be required to indemnify an Indemnitee in connection with any action, suit or proceeding (or part thereof) (i) commenced by such Indemnitee only if the commencement of such action, suit or proceeding (or part thereof) by such Indemnitee was authorized by the General Partner, and (ii) by or in the right of the Partnership only if the General Partner has provided its prior written consent. The indemnification of an Indemnitee of the type identified in clause (d) of the definition of Indemnitee shall be secondary to any and all indemnification to which such Indemnitee is entitled from the relevant other Person (including any payment made to such Indemnitee under any insurance policy issued to or for the benefit of such Person or Indemnitee) (the "**Primary Indemnification**"), and will only be paid to the extent the Primary Indemnification is not paid and/or does not provide coverage (e.g., a self-insured retention amount under an insurance policy). No such Person shall be entitled to contribution or indemnification from or subrogation against the Partnership. The indemnification of any other Indemnitee shall, to the extent not in conflict with such policy, be secondary to any and all payment to which such Indemnitee is entitled from any relevant insurance policy issued to or for the benefit of the Partnership or any Indemnitee.
- 12.2.2 *Advancement of Expenses.* To the fullest extent permitted by law, the Partnership shall promptly pay reasonable expenses (including attorneys' fees) incurred by any Indemnitee in appearing at, participating in or defending any Proceeding in advance of the final disposition of such Proceeding, including appeals, upon presentation of an undertaking on behalf of such Indemnitee to repay such amount if it shall ultimately be determined that such Indemnitee is not entitled to be indemnified under this Section 12.2 or otherwise. Notwithstanding the preceding sentence, except as otherwise provided in Section 12.2.3, the Partnership shall be required to pay expenses of an Indemnitee in connection with any Proceeding (or part thereof) (i) commenced by such Indemnitee only if the commencement of such action, suit or proceeding (or part thereof) by such Indemnitee was authorized by the General Partner and (ii) by or in the right of the Partnership only if the General Partner has provided its prior written consent.
- 12.2.3 *Unpaid Claims.* If a claim for indemnification (following the final disposition of such Proceeding) or advancement of expenses under this Section 12.2 is not paid in full within 30 days after a written claim therefor by any Indemnitee has been received by the Partnership, such Indemnitee may file proceedings to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action the Partnership shall have the burden of proving that such Indemnitee is not entitled to the requested indemnification or advancement of expenses under applicable Law.

12.2.4 *Insurance.*

- (i) To the fullest extent permitted by law, the Partnership may purchase and maintain insurance on behalf of any Person described in Section 12.2.1 against any liability asserted against such person, whether or not the Partnership would have the power to indemnify such person against such liability under the provisions of this Section 12.2 or otherwise.
- (ii) In the event of any payment by the Partnership under this Section 12.2, the Partnership shall be subrogated to the extent of such payment to all of the rights of recovery of the Indemnitee from any relevant other Person or under any insurance policy issued to or for the benefit of the Partnership, such relevant other Person, or any Indemnitee. Each Indemnitee agrees to execute all papers required and take all action necessary to secure such rights, including the execution of such documents as are necessary to enable the Partnership to bring suit to enforce any such rights in accordance with the terms of such insurance policy or other relevant document. The Partnership shall pay or reimburse all expenses actually and reasonably incurred by the Indemnitee in connection with such subrogation.
- (iii) The Partnership shall not be liable under this Section 12.2 to make any payment of amounts otherwise indemnifiable hereunder (including judgments, fines and amounts paid in settlement, and excise taxes with respect to an employee benefit plan or penalties) if and to the extent that the applicable Indemnitee has otherwise actually received such payment under this Section 12.2 or any insurance policy, contract, agreement or otherwise.

12.2.5 *Non-Exclusivity of Rights.* The provisions of this Section 12.2 shall be applicable to all actions, claims, suits or proceedings made or commenced after the date of this Agreement, whether arising from acts or omissions to act occurring before or after its adoption. The provisions of this Section 12.2 shall be deemed to be a contract between the Partnership and each person entitled to indemnification under this Section 12.2 (or legal representative thereof) who serves in such capacity at any time while this Section 12.2 and the relevant provisions of applicable Law, if any, are in effect, and any amendment, modification or repeal hereof shall not affect any rights or obligations then existing with respect to any state of facts or any action, suit or proceeding then or theretofore existing, or any action, suit or proceeding thereafter brought or threatened based in whole or in part on any such state of facts. If any provision of this Section 12.2 shall be found to be invalid or limited in application by reason of any Law or regulation, it shall not affect the validity of the remaining provisions hereof. The rights of indemnification provided in this Section 12.2 shall neither be exclusive of, nor be deemed in limitation of, any rights to which any person may otherwise be or become entitled or permitted by contract, this Agreement or as a matter of law, both as to actions in such person's official capacity and actions in any other capacity, it being the policy of the Partnership that indemnification of any person whom the Partnership is obligated to indemnify pursuant to Section 12.2.1 shall be made to the fullest extent permitted by law.

- 12.2.6 For purposes of this Section 12.2, references to “**other enterprises**” shall include employee benefit plans; references to “**finances**” shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to “**servicing at the request of the Partnership**” shall include any service as a director, officer, employee or agent of the General Partner (if engaged by the General Partner in its capacity as general partner of the Partnership) or as an employee or agent of the Partnership which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries.
- 12.2.7 This Section 12.2 shall not limit the right of the Partnership, to the extent and in the manner permitted by law, to indemnify and to advance expenses to, and purchase and maintain insurance on behalf of, persons other than persons described in Section 12.2.1.
- 12.3 *Survival*. The provisions of this Section 12 shall survive the dissolution, liquidation, winding up and termination of the Partnership.

### SECTION 13 VALUATION

- 13.1 **Fair Market Value** For all purposes of this Agreement, “**Fair Market Value**” of any asset, property or equity interest means the amount which a seller of such asset, property or equity interest would receive in a sale of such asset, property or equity interest in an arms-length transaction with an unaffiliated third party consummated on a date determined by the General Partner (which may be the date on which the event occurred which necessitated the determination of the Fair Market Value) (and after giving effect to any transfer taxes payable in connection with such sale).
- 13.2 **Determination** Fair Market Value shall be determined by the General Partner (or, if pursuant to Section 11.4, the Liquidator) in its good faith judgment in such manner as it deems reasonable and using all factors, information and data deemed to be pertinent; *provided* that, no determination of Fair Market Value shall give effect or take into account any “minority discount” or “liquidity discount” (or any similar discount arising out of the fact that the Units are restricted or is not registered with the Commission, publicly traded or listed on a securities exchange), but shall value the Partnership and its Subsidiaries and their respective businesses in their entirety on an enterprise basis using any variety of industry recognized valuation techniques commonly used to value businesses.

### SECTION 14 GENERAL PROVISIONS

- 14.1 **Notices** All notices, requests, claims, demands and other communications hereunder (“**Notices**”) shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt) by delivery in person, by courier service (delivery receipt requested), by electronic mail or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 14.1):

*If to the General Partner:*

70 Sir John Rogerson’s Quay  
Dublin 2, Ireland  
Attention: Tim Bertram  
Email: Tim.Bertram@prokidney.com

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*With a copy to (which shall not constitute notice):*

Davis Polk & Wardwell LLP  
450 Lexington Avenue  
New York, New York 10017  
Attention: Lee Hochbaum, Richard Truesdell  
Email: lee.hochbaum@davispolk.com, richard.truesdell@davispolk.com

and

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.  
555 12th Street NW  
Suite 1100  
Washington, D.C. 20004  
Attention: Matthew Simpson  
Email: MTSimpson@mintz.com

and

Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
New York, New York 10036  
Attention: Stuart Leblang  
Jonathan Pavlich  
Email: sleblang@akingump.com  
jpavlich@akingump.com

*If to PubCo:*

2000 Frontis Plaza Blvd., Suite 250  
Winston-Salem, NC 27103  
Attention: Tim Bertram  
Email: Tim.Bertram@prokidney.com

*With a copy to (which shall not constitute notice):*

Davis Polk & Wardwell LLP  
450 Lexington Avenue  
New York, New York 10017  
Attention: Lee Hochbaum, Richard Truesdell  
Email: lee.hochbaum@davispolk.com, richard.truesdell@davispolk.com

and

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.  
555 12th Street NW  
Suite 1100  
Washington, D.C. 20004  
Attention: Matthew Simpson  
Email: MTSimpson@mintz.com

*If to any Limited Partner (other than PubCo):*

to such Partner at the address of such Partner as set forth in Schedule 1 hereto;

or to such other address or addresses as the applicable Partner may designate to the other Partners by like notice as hereinabove set forth. Email addresses are listed for the convenience, but shall not be sufficient to constitute notice under this Agreement unless a confirmation copy of such notice is delivered (a) personally (with signed confirmation of receipt), or (b) by Federal Express or other overnight mail (with signed confirmation of receipt).

All Notices shall be in writing and shall be deemed to have been given: (i) upon delivery, if by hand; or (ii) on the delivery date as recorded by the delivery service, if sent by Federal Express or other overnight mail.

- 14.2 **Cumulative Remedies** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by Law.
- 14.3 **Binding Effect** This Agreement shall be binding upon and inure to the benefit of all of the parties and, to the extent permitted by this Agreement, their successors, executors, administrators, heirs, legal representatives and assigns.
- 14.4 **Interpretation** Throughout this Agreement, nouns, pronouns and verbs shall be construed as masculine, feminine, neuter, singular or plural, whichever shall be applicable. Unless otherwise specified, all references herein to “Articles,” “Sections” and paragraphs shall refer to corresponding provisions of this Agreement. The word “including” or any variation thereof means “including, without limitation” and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it. Each party hereto acknowledges and agrees that the parties hereto have participated collectively in the negotiation and drafting of this Agreement and that he or she or it has had the opportunity to draft, review and edit the language of this Agreement; accordingly, it is the intention of the parties that no presumption for or against any party arising out of drafting all or any part of this

Agreement will be applied in any dispute relating to, in connection with or involving this Agreement. Accordingly, the parties hereby waive to the fullest extent permitted by law the benefit of any rule of law or any legal decision that would require that in cases of uncertainty, the language of a contract should be interpreted most strongly against the party who drafted such language.

- 14.5 **Severability** If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of Law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions is not affected in any manner materially adverse to any party. Upon a determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.
- 14.6 **Headings** The headings and subheadings in this Agreement are included for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.
- 14.7 **Counterparts** This Agreement may be executed and delivered (including by email or facsimile transmission) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed and delivered shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Copies of executed counterparts transmitted by telecopy or other electronic transmission service shall be considered original executed counterparts for purposes of this Section 14.7.
- 14.8 **Further Assurances** Each Partner shall perform all other acts and execute and deliver all other documents as may be necessary or appropriate to carry out the purposes and intent of this Agreement.
- 14.9 **Entire Agreement** This Agreement and the agreements referred to herein (including the Lock-Up Agreement) constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings, whether oral or written, pertaining thereto (including the Existing Partnership Agreement).
- 14.10 **Governing Law and Jurisdiction** Notwithstanding the place where this Agreement may be executed by any of the parties thereto, the parties expressly agree that all the terms and provisions hereof shall be governed by and construed in accordance with the laws of the Ireland. The courts of Ireland shall have non-exclusive jurisdiction to hear and determine any claim, suit, action or proceeding, and to settle any disputes, which may arise out of or are in any way related to or in connection with this Agreement, and, for such purposes, each party submits to the non-exclusive jurisdiction of such courts.
- 14.11 **Expenses** Except as otherwise specified in this Agreement, the Partnership shall be responsible for all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred by the Partners and the Partnership in connection with the preparation and negotiation of this Agreement.



14.12 **Amendments and Waivers**

14.12.1 *Amendments by General Partner with Approval of PubCo* This Agreement (including the Annexes hereto) may be amended, supplemented, waived or modified by the General Partner with the approval of PubCo (with the approval of a majority of the disinterested members of the PubCo Board) and without the approval of any other Partner or other Person so long as such amendment is executed and delivered to the Partnership by PubCo and has been approved by the General Partner and each of the Limited Partners (other than PubCo) hereby appoints the General Partner as its lawful attorney for the purposes of executing and delivering such amendment on its behalf; provided that, no amendment, including any amendment effected by way of merger, consolidation or Transfer of all or substantially all the assets of the Partnership, may (i) materially and adversely affect the rights of a holder of Units, as such, other than on a *pro rata* basis with other holders of Units of the same Class without the consent of such holder (or, if there is more than one such holder that is so affected, without the consent of a majority in interest of such affected holders in accordance with their holdings of such Class of Units); provided that, the creation or issuance of any new Unit or Equity Interest of the Partnership permitted pursuant to Section 9.5 and any amendments or modifications to Agreement to the extent necessary to reflect such creation or issuance shall not be deemed to disproportionately and adversely affect a Partner or remove a right or privilege specifically granted to a Partner in any event; (ii) modify the limited liability of any Partner, or increase the Liabilities of any Partner, in each case, without the prior written consent of each such affected Partner; or (iii) alter or change any rights, preferences or privileges of any Units in a manner that is different or prejudicial relative to any other Units in the same class of Units, without the prior written consent of the holders of a majority of such Units.

14.12.2 *Amendments by General Partner Without Approval of Other Persons* Notwithstanding anything to the contrary herein, the General Partner may, without the written consent of any Partner, amend, supplement, waive or modify any provision of this Agreement, including Schedule I, and execute, swear to, acknowledge, deliver, file and record whatever documents may be required in connection therewith, to reflect:

(a) any amendment, supplement, waiver or modification that the General Partner determines in its reasonable discretion to be necessary or appropriate in connection with the creation, authorization or issuance of Units or any Class or series of equity interest in the Partnership pursuant to Section 9.1 hereof;

(b) the admission, substitution, or withdrawal of Partners in accordance with this Agreement, pursuant to Sections 10.6 and 10.7 hereof;

(c) a change in the name of the Partnership, the location of the principal place of business of the Partnership, the registered agent of the Partnership or the registered office of the Partnership (whether to a location in Ireland or outside Ireland);

(d) any amendment, supplement, waiver or modification that the General Partner determines in its reasonable discretion to be necessary or appropriate to address changes in U.S. federal income tax regulations, legislation or interpretation or Irish tax regulations, legislation or interpretation; and/or

(e) a change in the Fiscal Year or taxable year of the Partnership and any other changes that the General Partner determines to be necessary or appropriate as a result of a change in the Fiscal Year or taxable year of the Partnership including a change in the dates on which Distributions are to be made by the Partnership.

If an amendment has been approved in accordance with this Agreement, such amendment shall be adopted and effective with respect to all Partners. Upon obtaining such approvals as may be required by this Agreement, and without further action or execution on the part of any Partner or other Person, any amendment to this Agreement may be implemented and reflected in a writing executed solely by the General Partner and the Partners shall be deemed a party to and bound by such amendment.

- 14.12.3 *Failure to Act not a Waiving of Rights* No failure or delay by any party in exercising any right, power or privilege hereunder (other than a failure or delay beyond a period of time specified herein) shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law.
- 14.12.4 *Waiving of Certain Rights* Except as may be otherwise required by law in connection with the winding-up, liquidation, or dissolution of the Partnership, each Partner hereby irrevocably waives any and all rights that it may have to maintain an action for judicial accounting or for partition of any of the Partnership's property.
- 14.13 **No Third Party Beneficiaries** This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their permitted assigns and successors and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement (other than pursuant to Section 12.2 hereof).
- 14.14 **Power of Attorney** Each Partner, by its execution hereof, hereby makes, constitutes and appoints the General Partner as its true and lawful agent and attorney in fact, with full power of substitution and full power and authority in its name, place and stead, to make, execute, sign, acknowledge, swear to, record and file (a) this Agreement and any amendment to this Agreement that has been consented to and adopted as herein provided; (b) all certificates and other instruments (including consents and ratifications which the Partners have agreed to provide upon a matter receiving the agreed support of Partners) deemed advisable by the General Partner to carry out the provisions of this Agreement and Law or to permit the Partnership to continue as a limited partnership wherein the Partners have limited liability in each jurisdiction where the Partnership may be doing business; (c) all instruments that the General Partner deems appropriate to reflect a change or modification of this Agreement or the Partnership in accordance with this Agreement, including the admission of additional Partners or substituted Partners pursuant to the provisions of this Agreement; (d) all conveyances and other instruments or papers deemed advisable by the General Partner to effect the liquidation and termination of the Partnership in accordance with this Agreement; and (e) all assumed name certificates required or permitted (in light of the Partnership's activities) to be filed on behalf of the Partnership.
- 14.15 **Separate Agreements; Schedules** Notwithstanding any other provision of this Agreement, including Section 14.12, the General Partner in its sole discretion may, or may cause the Partnership to, without the approval of any Partner or other Person, enter into separate subscription, letter or other agreements with individual Partners that have become or will become Partners after the date hereof with respect to any matter, which have the effect of establishing rights under, or altering, supplementing or amending the terms of, this Agreement. The parties hereto agree that any terms contained in any such separate agreement shall govern with respect to such future Partner(s) party thereto notwithstanding the provisions of this

Agreement. The General Partner in its sole discretion may from time to time execute and deliver to the Partners schedules which set forth information contained in the books and records of the Partnership and any other matters deemed appropriate by the General Partner. Such schedules shall be for information purposes only and shall not be deemed to be part of this Agreement for any purpose whatsoever. Notwithstanding anything to the contrary, solely for U.S. federal income tax purposes, this Agreement, the Tax Receivable Agreement, the Exchange Agreement and any other separate agreement described in this Section 14.15 shall constitute a "partnership agreement" within the meaning of Section 761 of the Code.

- 14.16 **Delivery by Facsimile or Email** This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or email with scan or facsimile attachment, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or email to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or email as a defence to the formation or enforceability of a contract, and each such party forever waives any such defence.
- 14.17 **Registration of changes in the Partnership** The General Partner shall ensure that all necessary returns (other than tax returns under Section 8.2), filings and registrations required to be made by or on behalf of the Partnership are made in the manner and time required by the Act and the other Partners agree to complete or provide the necessary information to the General Partner required to complete such returns, filings and registrations in the manner and time required by the Act and, otherwise, to provide such assistance as may reasonably be required by the General Partner in that regard. Notwithstanding any other provision of this Agreement, to the extent required by the Act, if any change is made or occurs in (a) the name of the Partnership, (b) the general nature of the business of the Partnership, (c) the principal place of business of the Partnership, (d) the Partners or the name of any Partner, (e) the term or character of the Partnership, (f) the sum contributed by any Limited Partner or (g) the liability of any Partner by reason of its becoming a limited instead of a general partner under the Act or a general instead of a limited partner under the Act, such change shall only take effect from the date a statement of the change, signed by, or on behalf of, the General Partner, is sent to the Irish Companies Registration Office as required by the Act.

IN WITNESS WHEREOF, the parties to this Agreement have executed and delivered this Agreement as a deed on the date and year first above written.

**Schedule**

**Part 1**

**NAMES AND DATE OF ADMISSION OF LIMITED PARTNERS**

<u>Name</u>	<u>Date of Admission</u>
Tolerantia, LLC	5 August 2021
Control Empresarial de Capitales, S.A de C.V	5 August 2021
ProKidney Management Equity LLC	5 August 2021
ProKidney Corp. (formerly known as Social Capital Suvretta Holdings Corp. III)	11 July 2022

**Part 2**

**PARTNER ADDRESSES, UNITS AND CAPITAL CONTRIBUTIONS OF PROKIDNEY LP**

<u>Name and Address of Partner</u>	<u>Number of Common Units</u>	<u>Number of Restricted Common Units</u>	<u>Capital Contribution</u>
<i>Limited Partners</i>			
Tolerantia, LLC Address: 110 East 59th Street, Suite 3300 New York, NY 10022, United States	94,677,968	3,500,000 Series 1 RCU 3,500,000 Series 2 RCU 3,500,000 Series 3 RCU	\$ 141,900,000 (representing an <i>in-kind</i> Capital Contribution of 93,900,000 Class A Units in ProKidney LLC, a subsequent cash contribution of \$18 million and on 11 July 2022, a further cash contribution of \$30,000,000) <i>of which:</i> \$14,190 is an Equity Contribution and \$141,885,810 is an Advance
Control Empresarial de Capitales, S.A. de C.V. Address: Paseo de las Palmas 781, 3rd floor Lomas de Chapultepec III Sección Alcaldía Miguel Hidalgo, C.P.11000, Mexico City, Mexico	63,118,645	2,333,333 Series 1 RCU 2,333,333 Series 2 RCU 2,333,333 Series 3 RCU	\$94,600,000 (representing an <i>in-kind</i> Capital Contribution of 62,600,000 Class A Units in ProKidney LLC, a subsequent cash contribution of \$12 million and on 11 July 2022, a further cash contribution of \$20,000,000) <i>of which:</i> \$94,600,000 is an Equity Contribution and nil Advances

Name and Address of Partner	Number of Common Units	Number of Restricted Common Units	Capital Contribution
ProKidney Management Equity LLC Address: 55 Par La Ville Road, Third Floor, Hamilton HM11, Bermuda	12,927,348	9,276,039 PMEL RCUs	\$6,050,001.41 (\$1 of which represents an <i>in-kind</i> Capital Contribution of 7,767,122 Class B Units in ProKidney LLC, \$5,550,000 of which represents a cash contribution made on or about 17 January 2022 allocable to the issuance of the Class B-1 Units as of the Effective Date and \$500,000.41 of which represents a cash contribution made on or about 1 June 2022 allocable to the issuance of the Class B-1 Units as of 1 June 2022)  <i>of which:</i> \$606 is an Equity Contribution and \$6,049,395.41 is an Advance
ProKidney Corp. (formerly known as Social Capital Suvretta Holdings Corp. III) Admitted as a Limited Partner upon the Closing. Address: 317 University Avenue, Suite 200, Palo Alto, California 94301, United States  <i>General Partner</i>	61,540,231	Nil	\$497,119,342.58 (representing an <i>in-kind</i> Capital Contribution of 170,723,961 Class B Common Shares, 9,276,039 Acquiror Class B PMEL RSRs in ProKidney Corp. and a cash contribution of \$497,119,342.58)  <i>of which:</i> \$49,711.93 is an Equity Contribution \$497,069,630.65 is an Advance
ProKidney Corp. GP Limited Address: 70 Sir John Rogerson's Quay, Dublin 2, Ireland	1	Nil	\$1  <i>of which:</i> \$1 is an Equity Contribution
<b>Total</b>	<b>232,264,193</b>	<b>17,500,000 RCUs and 9,276,039 PMEL RCUs</b>	

*(Signature Pages Follow)*

Signed and Delivered as a Deed  
for and on behalf, and as the deed, of  
**PROKIDNEY GP LIMITED**  
by its lawfully appointed attorney  
Jaime Gomez Sotomayor  
in the presence of:

/s/ Jaime Gomez Sotomayor  
Jaime Gomez Sotomayor  
Lawfully Appointed Attorney

/s/ Erika Santiago Hernandez  
Witness Signature:

Erika Santiago Hernandez  
Witness Name:

\*\*\*  
Witness Address:

\*\*\*  
Witness Occupation:

Signed and Delivered as a Deed  
for and on behalf, and as the deed, of  
**PROKIDNEY CORP. GP LIMITED**  
by its lawfully appointed attorney  
Jaime Gomez Sotomayor  
in the presence of:

/s/ Jaime Gomez Sotomayor  
Jaime Gomez Sotomayor  
Lawfully Appointed Attorney

/s/ Erika Santiago Hernandez  
Witness Signature:

Erika Santiago Hernandez  
Witness Name:

\*\*\*  
Witness Address:

\*\*\*  
Witness Occupation:

*[Signature Page to the Second Amended and Restated Limited Partnership Agreement for a Limited Partnership called ProKidney LP]*

Executed and Delivered as a Deed by  
**TOLERANTIA, LLC**  
in the presence of:

/s/ Jaime Gomez Sotomayor  
Jaime Gomez Sotomayor  
Authorized Signatory

/s/ Erika Santiago Hernandez  
Witness Signature:

Erika Santiago Hernandez  
Witness Name:

\*\*\*  
Witness Address:

\*\*\*  
Witness Occupation:

Executed and Delivered as a Deed by  
**CONTROL EMPRESARIAL DE  
CAPITALES, S.A. DE C.V.**  
in the presence of:

/s/ Armando Ibañez Vázquez  
Armando Ibañez Vázquez  
Attorney-in-fact

/s/ Jose Ignacio Jimenez Santos  
Witness Signature:

Jose Ignacio Jimenez Santos  
Witness Name:

\*\*\*  
Witness Address:

\*\*\*  
Witness Occupation:

*[Signature Page to the Second Amended and Restated Limited Partnership Agreement for a Limited Partnership called ProKidney LP]*

Signed and Delivered as a Deed by  
**PROKIDNEY MANAGEMENT  
EQUITY LLC**

in the presence of:

/s/ Jaime Gomez Sotomayor  
Jaime Gomez Sotomayor  
Authorized Signatory  
For and on behalf of Tolerantia, LLC, in its  
capacity as manager of ProKidney Management  
Equity LLC

/s/ Erika Santiago Hernandez  
Witness Signature:

Erika Santiago Hernandez  
Witness Name:

\*\*\*  
Witness Address:

\*\*\*  
Witness Occupation:

Executed and Delivered as a Deed by  
**SOCIAL CAPITAL SUVRETTA  
HOLDINGS CORP. III**  
in the presence of:

/s/ Kishan Mehta  
Kishan Mehta  
Authorized Signatory

/s/ Andrew Nathanson  
Witness Signature:

Andrew Nathanson  
Witness Name:

\*\*\*  
Witness Address:

\*\*\*  
Witness Occupation:

*[Signature Page to the Second Amended and Restated Limited Partnership Agreement for a Limited  
Partnership called ProKidney LP]*



**PROKIDNEY CORP**  
**2022 INCENTIVE EQUITY PLAN**

Section 1. *Purpose.* The purpose of the ProKidney Corp. Incentive Equity Plan (as amended from time to time, the “**Plan**”) is to promote the long-term success of ProKidney Corp., a Cayman Island exempted company limited by shares (the “**Company**”) by motivating employees and other individuals to perform at the highest level and contributing significantly to the success of the Company, thereby furthering the best interests of the Company and its shareholders. The Plan shall serve as the primary plan under which equity-based incentives are awarded on a worldwide basis to Participants.

Section 2. *Definitions.* As used in the Plan, the following terms shall have the meanings set forth below:

(a) “**Affiliate**” means any entity that, directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with, the Company.

(b) “**Articles**” means the amended and restated articles of memorandum of association of the Company, as may be amended and/or restated from time to time.

(c) “**Award**” means any Option, SAR, Restricted Stock, RSU, Performance Award, Other Cash-Based Award or Other Stock-Based Award granted under the Plan.

(d) “**Award Agreement**” means any agreement, contract or other instrument or document (including in electronic form) evidencing any Award granted under the Plan, which may, but need not, be executed or acknowledged by a Participant.

(e) “**Beneficial Owner**” has the meaning ascribed to such term in Rule 13d-3 under the Exchange Act.

(f) “**Beneficiary**” means a Person entitled to receive payments or other benefits or exercise rights that are available under the Plan in the event of a Participant’s death. If no such Person can be named or is named by a Participant, or if no Beneficiary designated by a Participant is eligible to receive payments or other benefits or exercise rights that are available under the Plan at a Participant’s death, such Participant’s Beneficiary shall be such Participant’s estate.

(g) “**Board**” means the Board of Directors of the Company.

(h) “**Business Combination Agreement**” means that certain Business Combination Agreement, dated as of January 18, 2022, made and entered into by and between Social Capital Suvretta Holdings Corp. III, a Cayman Islands exempted company limited by shares, and ProKidney LP, a limited partnership organized under the laws of Ireland, acting through its general partner ProKidney GP Limited, a private limited company incorporated under the laws of Ireland.

(i) “Cause” is as defined in Participant’s Service Agreement, if any, or Award Agreement or, if not so defined, means: (i) any theft, fraud, embezzlement, dishonesty, willful misconduct, breach of fiduciary duty for personal profit, falsification of any documents or records of the Company or any of its Affiliates, felony or similar act by Participant (whether or not related to Participant’s relationship with the Company); (ii) an act of moral turpitude by Participant, or any act that causes significant injury to, or is otherwise adversely affecting, the reputation, business, assets, operations or business relationship of the Company (or a Subsidiary or Affiliate, when applicable); (iii) any breach by Participant of any material agreement with or of any material duty of Participant to the Company or any Subsidiary or Affiliate thereof (including breach of confidentiality, non-disclosure, non-use non-competition or non-solicitation covenants towards the Company or any of its Affiliates) or failure to abide by code of conduct or other policies (including, without limitation, policies relating to confidentiality and reasonable workplace conduct); or (iv) any act which constitutes a breach of a Participant’s fiduciary duty towards the Company or an Affiliate or Subsidiary, including disclosure of confidential or proprietary information thereof or acceptance or solicitation to receive unauthorized or undisclosed benefits, irrespective of their nature, or funds, or promises to receive either, from individuals, consultants or corporate entities that the Company or a Subsidiary does business with; (v) Participant’s unauthorized use, misappropriation, destruction, or diversion of any tangible or intangible asset or corporate opportunity of the Company or any of its Affiliates (including, without limitation, the improper use or disclosure of confidential or proprietary information); or (vi) any circumstances that constitute grounds for termination for cause under Participant’s Service Agreement with the Company or Affiliate, to the extent applicable. For the avoidance of doubt, the determination as to whether a termination is for Cause for purposes of this Plan, shall be made in good faith by the Committee and shall be final and binding on Participant.

(j) “Change in Control” means the occurrence of any one or more of the following events:

(i) any Person, other than (A) any employee plan established by the Company or any Subsidiary, (B) the Company or any of its Affiliates, (C) an underwriter temporarily holding securities pursuant to an offering of such securities, or (D) an entity owned, directly or indirectly, by shareholders of the Company in substantially the same proportions as their ownership of the Company, is (or becomes, during any 12-month period) the Beneficial Owner, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such Person any securities acquired directly from the Company or its Affiliates other than in connection with the acquisition by the Company or its Affiliates of a business) representing 50% or more of the total voting power of the stock of the Company; *provided* that the provisions of this subsection (i) are not intended to apply to or include as a Change in Control any transaction that is specifically excepted from the definition of Change in Control under subsection (iii) below;

(ii) a change in the composition of the Board such that, during any 12-month period, the individuals who, as of the beginning of such period, constitute the Board (the “**Existing Board**”) cease for any reason to constitute at least 50% of the Board; *provided, however*, that any individual becoming a member of the Board subsequent to the beginning of such period whose election, or nomination for election by the Company’s shareholders, was approved by a vote of at least a majority of the Directors immediately prior to the date of such appointment or election shall be considered as though such individual were a member of the Existing Board; *provided further*, that, notwithstanding the foregoing, no individual whose initial assumption of office occurs as a result of either an actual or threatened election contest (as such terms are used in Rule 14a-11 or Regulation 14A promulgated under the Exchange Act or successor statutes or rules containing analogous concepts) or other actual or threatened solicitation of proxies or consents by or on behalf of an individual, corporation, partnership, group, associate or other entity or Person other than the Board, shall in any event be considered to be a member of the Existing Board;

(iii) the consummation of a merger, amalgamation or consolidation of the Company with any other corporation or other entity, or the issuance of voting securities in connection with such a transaction pursuant to applicable stock exchange requirements; *provided* that immediately following such transaction the voting securities of the Company outstanding immediately prior thereto do not continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity of such transaction or parent entity thereof) 50% or more of the total voting power of the Company’s stock (or, if the Company is not the surviving entity of such merger or consolidation, 50% or more of the total voting power and total fair market value of the stock of such surviving entity or parent entity thereof); and *provided, further*, that such a transaction effected to implement a recapitalization of the Company (or similar transaction) in which no Person is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such Person any securities acquired directly from the Company or its Affiliates other than in connection with the acquisition by the Company or its Affiliates of a business) representing 50% or more of either the then-outstanding Shares or the combined voting power and total fair market value of the Company’s then-outstanding voting securities shall not be considered a Change in Control; or

(iv) the sale or disposition by the Company of all or substantially all of the Company’s assets in which any Person acquires (or has acquired during the 12-month period ending on the date of the most recent acquisition by such Person) assets from the Company that have a total gross fair market value equal to more than 50% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions.

Notwithstanding the foregoing, (A) no Change in Control shall be deemed to have occurred if there is consummated any transaction or series of integrated transactions immediately following which the record holders of the Shares immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in an entity which owns substantially all of the assets of the Company immediately prior to such transaction or series of transactions and (B) no Change in Control shall be deemed to have occurred upon the acquisition of additional control of the Company by any Person that is considered to effectively control the Company. In no event will a Change in Control be deemed to have occurred if any Participant is part of a "group" within the meaning of Section 13(d)(3) of the Exchange Act that effects a Change in Control. Notwithstanding the foregoing or any provision of any Award Agreement to the contrary, for any Award that provides for accelerated distribution on a Change in Control of amounts that constitute "deferred compensation" (as defined in Section 409A of the Code), if the event that constitutes such Change in Control does not also constitute a change in the ownership or effective control of the Company, or in the ownership of a substantial portion of the Company's assets (in either case, as defined in Section 409A of the Code), such amount shall not be distributed on such Change in Control but instead shall vest as of such Change in Control and shall be distributed on the scheduled payment date specified in the applicable Award Agreement, except to the extent that earlier distribution would not result in the Participant who holds such Award incurring interest or additional tax under Section 409A of the Code.

(k) "**Code**" means the Internal Revenue Code of 1986, as amended from time to time, and the rules, regulations and guidance thereunder. Any reference to a provision in the Code shall include any successor provision thereto.

(l) "**Committee**" means the compensation committee of the Board unless another committee is designated by the Board. If there is no compensation committee of the Board and the Board does not designate another committee, references herein to the "Committee" shall refer to the Board.

(m) "**Consultant**" means any individual, including an advisor, who is providing *bona fide* services to the Company or any Subsidiary or who has accepted an offer of service or consultancy from the Company or any Subsidiary. For purposes of the Plan, in the case of a Consultant, references to employment shall be deemed to refer to such Consultant's service in such capacity, but in no event shall the Plan or any action taken hereunder be construed to create an employer-employee relationship between any such Consultant and the Company or of any of its Affiliates.

(n) "**Director**" means any member of the Board.

(o) "**Disability**" means the Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months in accordance with the definition of total and permanent disability as defined in Code Section 22(e)(3), provided that in the case of Awards other than Incentive Stock Options, the Committee in its discretion may determine whether a permanent and total disability exists in accordance with uniform and non-discriminatory standards adopted by the Committee from time to time.

(p) “**Effective Date**” means the later of (i) the date on which the Plan is adopted by the Board and approved by the shareholders of the Company, and (ii) July 11, 2022.

(q) “**Employee**” means any individual, including any officer, employed by the Company or any Subsidiary or any prospective employee or officer who has accepted an offer of employment from the Company or any Subsidiary, with the status of employment determined based upon such factors as are deemed appropriate by the Committee in its discretion, subject to any requirements of the Code or applicable laws; *provided* that any such person may not receive any payment or exercise any right relating to an Award until such person has commenced employment or service with the Company or its Subsidiaries. An employee on an approved leave of absence (including parental leave) shall be considered as still in the employment of the Company or its Subsidiaries for purposes of eligibility for participation in the Plan.

(r) “**Exchange Act**” means the Securities Exchange Act of 1934, as amended from time to time, and the rules, regulations and guidance thereunder. Any reference to a provision in the Exchange Act shall include any successor provision thereto.

(s) “**Fair Market Value**” means (i) with respect to Shares, the closing price of a Share on the applicable date of determination (or, if there is no reported sale on such date, on the last preceding date on which any reported sale occurred), on the principal stock market or exchange on which the Shares are quoted or traded, or if Shares are not so quoted or traded, the fair market value of a Share as determined by the Committee (and, to the extent applicable, such determination shall be made in a manner that satisfies Sections 409A and 422(c)(1) of the Code), and (ii) with respect to any property other than Shares, the fair market value of such property determined by such methods or procedures as shall be established from time to time by the Committee.

(t) “**Fully-Diluted Basis**” means all Shares outstanding on the applicable date of determination, which shall include Shares into which New Company Common Units may be exchanged pursuant to the Exchange Agreement (as such terms are defined in the Business Combination Agreement), but before giving effect to the number of Shares reserved for issuance or issued under this Plan and the Company’s Employee Stock Purchase Plan and excluding all Earnout Shares and all Earnout Company Units (as such terms are defined in the Business Combination Agreement) on the applicable date of determination.

(u) “**Incentive Stock Option**” means an option representing the right to purchase Shares from the Company, granted pursuant to Section 6, that meets the requirements of Section 422 of the Code.

(v) “**Intrinsic Value**” with respect to an Option or SAR Award means (i) the excess, if any, of the price or implied price per Share in a Change in Control or other event *over* (ii) the exercise or hurdle price of such Award *multiplied by* (iii) the number of Shares covered by such Award.

(w) “**Non-Employee Director**” means a Director who is not an Employee.

(x) “**Non-Qualified Stock Option**” means an option representing the right to purchase Shares from the Company, granted pursuant to Section 6, that is not an Incentive Stock Option.

(y) “**Option**” means an Incentive Stock Option or a Non-Qualified Stock Option.

(z) “**Other Cash-Based Award**” means an Award granted pursuant to Section 11, including cash awarded as a bonus or upon the attainment of specified performance criteria or otherwise as permitted under the Plan.

(aa) “**Other Stock-Based Award**” means an Award granted pursuant to Section 11 that may be denominated or payable in, valued in whole or in part by reference to, or otherwise based on, or related to, Shares or factors that may influence the value of Shares, including convertible or exchangeable debt securities, other rights convertible or exchangeable into Shares, purchase rights for Shares, dividend rights or dividend equivalent rights or Awards with value and payment contingent upon performance of the Company or business units thereof or any other factors designated by the Committee.

(bb) “**Participant**” means the recipient of an Award granted under the Plan.

(cc) “**Performance Award**” means an Award granted pursuant to Section 10.

(dd) “**Performance Period**” means the period established by the Committee with respect to any Performance Award during which the performance goals specified by the Committee with respect to such Award are to be measured.

(ee) “**Person**” has the meaning ascribed to such term in Section 3(a)(9) of the Exchange Act and used in Sections 13(d) and 14(d) thereof, including a “group” as defined in Section 13(d) thereof.

(ff) “**Restricted Stock**” means any Share subject to certain restrictions and forfeiture conditions, granted pursuant to Section 8.

(gg) “**Rule 16b-3**” means Rule 16b-3 promulgated under the Exchange Act or any successor to Rule 16b-3, as in effect from time to time.

(hh) “**RSU**” means a contractual right granted pursuant to Section 9 that is denominated in Shares. Each RSU represents a right to receive the value of one Share (or a percentage of such value) in cash, Shares or a combination thereof. Awards of RSUs may include the right to receive dividend equivalents.

(ii) “**SAR**” means a right granted pursuant to Section 7 to receive upon exercise by the Participant or settlement, in cash, Shares or a combination thereof, the excess of (i) the Fair Market Value of one Share on the date of exercise or settlement over (ii) the exercise or hurdle price of the right on the date of grant.

(jj) “**Service Agreement**” means any employment, severance, consulting or similar agreement between the Company or any of its Affiliates and a Participant.

(kk) “**Share**” means a Class A ordinary share, \$0.0001 par value, in the capital of the Company.

(ll) “**Subsidiary**” means an entity of which the Company directly or indirectly holds all or a majority of the value of the outstanding equity interests of such entity or a majority of the voting power with respect to the voting securities of such entity. Whether employment by or service with a Subsidiary is included within the scope of the Plan shall be determined by the Committee.

(mm) “**Substitute Award**” means an Award granted in assumption of, or in substitution for, an outstanding award previously granted by a company or other business acquired by the Company or with which the Company combines.

(nn) “**Termination of Service**” means, in the case of a Participant who is an Employee, cessation of the employment relationship such that the Participant is no longer an employee of the Company or any Subsidiary, or, in the case of a Participant who is a Consultant or Non-Employee Director, the date the performance of services for the Company or any Subsidiary has ended; *provided, however*, that in the case of a Participant who is an Employee, the transfer of employment from the Company to a Subsidiary, from a Subsidiary to the Company, from one Subsidiary to another Subsidiary or, unless the Committee determines otherwise, the cessation of employee status but the continuation of the performance of services for the Company or a Subsidiary as a Director or Consultant shall not be deemed a cessation of service that would constitute a Termination of Service; *provided, further*, that a Termination of Service shall be deemed to occur for a Participant employed by, or performing services for, a Subsidiary when such Subsidiary ceases to be a Subsidiary unless such Participant’s employment or service continues with the Company or another Subsidiary. Notwithstanding the foregoing, with respect to any Award subject to Section 409A of the Code (and not exempt therefrom), a Termination of Service occurs when a Participant experiences a “separation of service” (as such term is defined under Section 409A of the Code).

### Section 3. *Eligibility.*

(a) Any Employee, Non-Employee Director or Consultant shall be eligible to be selected to receive an Award under the Plan, to the extent that an offer or receipt of an Award is permitted by applicable law, stock market or exchange rules and regulations or accounting or tax rules and regulations.

(b) Holders of equity compensation awards granted by a company that is acquired by the Company (or whose business is acquired by the Company) or with which the Company combines are eligible for grants of Substitute Awards under the Plan to the extent permitted under applicable regulations of any stock exchange on which the Company is listed.

#### Section 4. *Administration.*

(a) *Administration of the Plan.* The Plan shall be administered by the Committee. All decisions of the Committee shall be final, conclusive and binding upon all parties, including the Company, its shareholders, Participants and any Beneficiaries thereof. The Committee may issue rules and regulations for administration of the Plan.

(b) *Delegation of Authority.* To the extent permitted by applicable law, including under the Companies Act (as amended) of the Cayman Islands, and the Articles, the Committee may delegate to one or more officers of the Company some or all of its authority under the Plan, including the authority to grant Options and SARs or other Awards in the form of Share rights (except that such delegation shall not apply to any Award for a Person then covered by Section 16 of the Exchange Act), and the Committee may delegate to one or more committees of the Board (which may consist of solely one Director) some or all of its authority under the Plan, including the authority to grant all types of Awards, in accordance with applicable law.

(c) *Authority of Committee.* Subject to the terms of the Plan and applicable law, the Committee (or its delegate) shall have full discretion and authority to: (i) designate Participants; (ii) determine the type or types of Awards (including Substitute Awards) to be granted to each Participant under the Plan; (iii) determine the number of Shares to be covered by (or with respect to which payments, rights or other matters are to be calculated in connection with) Awards; (iv) determine the terms and conditions of any Award and prescribe the form of each Award Agreement, which need not be identical for each Participant; (v) determine whether, to what extent, under what circumstances and by which methods Awards may be settled or exercised in cash, Shares, other Awards, other property, net settlement (including broker-assisted cashless exercise), or any combination thereof, or canceled, forfeited or suspended; (vi) determine whether, to what extent and under what circumstances cash, Shares, other Awards, other property and other amounts payable with respect to an Award under the Plan shall be deferred either automatically or at the election of the holder thereof or of the Committee; (vii) amend terms or conditions of any outstanding Awards; (viii) correct any defect, supply any omission and reconcile any inconsistency in the Plan or any Award, in the manner and to the extent it shall deem desirable to carry the Plan into effect; (ix) interpret and administer the Plan and any instrument or agreement relating to, or Award made under, the Plan; (x) establish, amend, suspend or waive such rules and regulations and appoint such agents, trustees, brokers, depositories and advisors and determine such terms of their engagement as it shall deem appropriate for the proper administration of the Plan and due compliance with applicable law, stock market or exchange rules and regulations or accounting or tax rules and regulations; and (xi) make any other determination and take any other action that the Committee deems necessary or desirable for the administration of the Plan and due compliance with applicable law, stock market or exchange rules and regulations or accounting or tax rules and regulations. Notwithstanding anything to the contrary contained herein, the Board may, in its sole discretion, at any time and from time to time, grant Awards or administer the Plan. In any such case, the Board shall have all of the authority and responsibility granted to the Committee herein.



(d) *Rule 16b-3 Compliance.* To the extent an Award is intended to qualify for the exemption from Section 16(b) of the Exchange Act that is available under Rule 16b-3 of the Exchange Act, the Award will be granted by the Board or a Committee (or a subcommittee thereof) that consists solely of two or more Non-Employee Directors, as determined under Rule 16b-3(b)(3) of the Exchange Act and thereafter any action establishing or modifying the terms of the Award will be approved by the Board or a Committee (or a subcommittee) meeting such requirements to the extent necessary for such exemption to remain available.

Section 5. *Shares Available for Awards.*

(a) Subject to the Articles and any adjustment as provided in Section 5(c) and except for Substitute Awards, the maximum number of Shares available for issuance under the Plan (the “**Plan Share Limit**”) shall not exceed in the aggregate 26,439,000 Shares; provided, however, upon the “Closing” (as defined in the Business Combination Agreement) the Plan Share Limit shall be reduced automatically to equal 10% of outstanding Shares on a Fully-Diluted Basis immediately following the Closing (for the avoidance of doubt, after giving effect to any Share redemptions in connection with the Closing). The Plan Share Limit shall be increased on the first day of each Company fiscal year beginning on January 1, 2023 and ending on and including January 1, 2032 in an amount equal to the lesser of (i) 5% of outstanding Shares on a Fully-Diluted Basis on the last day of the immediately preceding fiscal year and (ii) such number of Shares as determined by the Committee in its discretion. Shares underlying Substitute Awards and Shares remaining available for grant under a plan of an acquired company or of a company with which the Company combines (whether by way of amalgamation, merger, sale and purchase of shares or other securities or otherwise), appropriately adjusted to reflect the acquisition or combination transaction, shall not reduce the number of Shares remaining available for grant hereunder.

(b) If any Award is forfeited, cancelled, expires, terminates or otherwise lapses or is settled in cash, in whole or in part, without the delivery of Shares, then the Shares covered by such forfeited, expired, terminated or lapsed Award shall again be available for grant under the Plan. The following shall become available for issuance under the Plan: (i) any Shares withheld in respect of taxes relating to any Award and (ii) any Shares tendered or withheld to pay the exercise price of Options or that are covered by SARs (to the extent settled in Shares).

(c) In the event that the Committee determines that, as a result of any dividend or other distribution (other than an ordinary dividend or distribution), recapitalization, stock split, reverse stock split, reorganization, merger, amalgamation, consolidation, separation, rights offering, split-up, spin-off, combination, repurchase or exchange of Shares or other securities of the Company, issuance of warrants or other rights to acquire Shares or other securities of the Company, or other similar corporate transaction or event affecting the Shares, or of changes in applicable laws, regulations or accounting

principles, an adjustment is necessary in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, then the Committee shall, subject to Section 19 and applicable law, adjust equitably so as to ensure no undue enrichment or harm (including by payment of cash), any or all of:

- (i) the number and type of Shares (or other securities) which thereafter may be made the subject of Awards, including the aggregate limits specified in Section 5(a) and Section 5(f);
- (ii) the number and type of Shares (or other securities) subject to outstanding Awards;
- (iii) the grant, acquisition, exercise or hurdle price with respect to any Award or, if deemed appropriate, make provision for a cash payment to the holder of an outstanding Award; and
- (iv) the terms and conditions of any outstanding Awards, including the performance criteria of any Performance Awards;

*provided, however,* that the number of Shares subject to any Award denominated in Shares shall always be a whole number.

(d) Any Shares delivered pursuant to an Award may consist, in whole or in part, of authorized and unissued Shares or Shares acquired by the Company.

(e) The aggregate value of all compensation granted or paid, as applicable, to any individual for service as a Non-Employee Director with respect to any calendar year, including Awards granted and cash fees paid by the Company to such Non-Employee Director, will not exceed (i) \$750,000 in total value or (ii) in the event such Non-Employee Director is first appointed or elected to the Board, \$1,000,000 in total value during the initial annual period, in each case calculating the value of any equity awards based on the grant date fair value of such equity awards for financial reporting purposes.

(f) Subject to adjustment as provided in Section 5(c)(i), the maximum number of Shares available for issuance with respect to Incentive Stock Options shall be 75,567,000. To the extent that the aggregate Fair Market Value (determined at the time of grant) of Shares with respect to which Incentive Stock Options are exercisable for the first time by any Optionholder during any calendar year (under all plans of the Company and any Affiliates) exceeds \$100,000 (or such other limit established in the Code) or otherwise does not comply with the rules governing Incentive Stock Options, the Options or portions thereof that exceed such limit (according to the order in which they were granted) or otherwise do not comply with such rules will be treated as Nonqualified Stock Options, notwithstanding any contrary provision of the applicable Option Agreement(s).

Section 6. *Options*. The Committee is authorized to grant Options to Participants with the following terms and conditions and with such additional terms and conditions, in either case not inconsistent with the provisions of the Plan, as the Committee shall determine:

(a) Subject to Section 6(f) below, the exercise price per Share under an Option shall be determined by the Committee at the time of grant; *provided, however*, that, except in the case of Substitute Awards, such exercise price shall not be less than the Fair Market Value of a Share on the date of grant of such Option.

(b) Subject to Section 6(f) below, the term of each Option shall be fixed by the Committee but shall not exceed 10 years from the date of grant of such Option.

(c) The Committee shall determine the methods by which, and the forms in which payment of the exercise price with respect thereto may be made or deemed to have been made, including cash, Shares, other Awards, other property, net settlement (including broker-assisted cashless exercise) or any combination thereof, having a Fair Market Value on the exercise date equal to the relevant exercise price.

(d) To the extent an exercisable Option is not previously exercised as to all of the Shares subject thereto, and, if the Fair Market Value of one Share is greater than the exercise price then in effect, then the Option shall be deemed automatically exercised immediately before its expiration.

(e) No grant of Options may be accompanied by a tandem award of dividend equivalents or provide for dividends, dividend equivalents or other distributions to be paid on such Options (except as provided under Section 5(c)).

(f) The terms of any Incentive Stock Option granted under the Plan shall comply in all respects with the provisions of Section 422 of the Code. Incentive Stock Options may be granted only to employees of the Company or of a parent or subsidiary corporation (as defined in Section 424 of the Code).

Section 7. *Stock Appreciation Rights*. The Committee is authorized to grant SARs to Participants with the following terms and conditions and with such additional terms and conditions, in either case not inconsistent with the provisions of the Plan, as the Committee shall determine:

(a) SARs may be granted under the Plan to Participants either alone (“freestanding”) or in addition to other Awards granted under the Plan (“tandem”) and may, but need not, relate to a specific Option granted under Section 6.

(b) The exercise or hurdle price per Share under a SAR shall be determined by the Committee; *provided, however*, that, except in the case of Substitute Awards, such exercise or hurdle price shall not be less than the Fair Market Value of a Share on the date of grant of such SAR.

(c) The term of each SAR shall be fixed by the Committee but shall not exceed 10 years from the date of grant of such SAR.

(d) Upon the exercise of a SAR, the Company shall pay to the Participant an amount equal to the number of Shares subject to the SAR multiplied by the excess, if any, of the Fair Market Value of one Share on the exercise date over the exercise or hurdle price of such SAR. The Company shall pay such excess in cash, in Shares valued at Fair Market Value, or any combination thereof, as determined by the Committee.

(e) To the extent an exercisable SAR is not previously exercised as to all of the Shares subject thereto, and, if the Fair Market Value of one Share is greater than the exercise price then in effect, then the SAR shall be deemed automatically exercised immediately before its expiration.

(f) No grant of SARs may be accompanied by a tandem award of dividend equivalents or provide for dividends, dividend equivalents or other distributions to be paid on such SARs (except as provided under Section 5(c)).

Section 8. *Restricted Stock*. The Committee is authorized to grant Awards of Restricted Stock to Participants with the following terms and conditions and with such additional terms and conditions, in either case not inconsistent with the provisions of the Plan, as the Committee shall determine:

(a) The Award Agreement shall specify the vesting schedule.

(b) Awards of Restricted Stock shall be subject to such restrictions as the Committee may impose, which restrictions may lapse separately or in combination at such time or times, in such installments or otherwise, as the Committee may deem appropriate.

(c) Subject to the restrictions set forth in the applicable Award Agreement, a Participant generally shall have the rights and privileges of a shareholder with respect to Awards of Restricted Stock, including the right to vote such Shares of Restricted Stock and the right to receive dividends.

(d) The Committee may, in its discretion, specify in the applicable Award Agreement that any or all dividends or other distributions paid on Awards of Restricted Stock prior to vesting be paid either in cash or in additional Shares and either on a current or deferred basis and that such dividends or other distributions may be reinvested in additional Shares, which may be subject to the same restrictions as the underlying Awards.

(e) Any Award of Restricted Stock may be evidenced in such manner as the Committee may deem appropriate, including book-entry registration.

(f) The Committee may provide in an Award Agreement that an Award of Restricted Stock is conditioned upon the Participant making or refraining from making an election with respect to the Award under Section 83(b) of the Code. If a Participant makes an election pursuant to Section 83(b) of the Code with respect to an Award of Restricted Stock, such Participant shall be required to file promptly a copy of such election with the Company and the applicable Internal Revenue Service office.

Section 9. *RSUs*. The Committee is authorized to grant Awards of RSUs to Participants with the following terms and conditions and with such additional terms and conditions, in either case not inconsistent with the provisions of the Plan, as the Committee shall determine:

(a) The Award Agreement shall specify the vesting schedule and the delivery schedule (which may include deferred delivery later than the vesting date).

(b) Awards of RSUs shall be subject to such restrictions as the Committee may impose, which restrictions may lapse separately or in combination at such time or times, in such installments or otherwise, as the Committee may deem appropriate.

(c) An RSU shall not convey to a Participant the rights and privileges of a shareholder with respect to the Share subject to such RSU, such as the right to vote or the right to receive dividends, unless and until and to the extent a Share is issued to such Participant to settle such RSU.

(d) The Committee may, in its discretion, specify in the applicable Award Agreement that any or all dividend equivalents or other distributions paid on Awards of RSUs prior to vesting or settlement, as applicable, be paid either in cash or in additional Shares and either on a current or deferred basis and that such dividend equivalents or other distributions may be reinvested in additional Shares, which may be subject to the same restrictions as such Awards.

(e) Shares delivered upon the vesting and settlement of an RSU Award may be evidenced in such manner as the Committee may deem appropriate, including book-entry registration.

(f) The Committee may determine the form or forms (including cash, Shares, other Awards, other property or any combination thereof) in which payment of the amount owing upon settlement of any RSU Award may be made.

Section 10. *Performance Awards*. The Committee is authorized to grant Performance Awards to Participants with the following terms and conditions and with such additional terms and conditions, in either case not inconsistent with the provisions of the Plan, as the Committee shall determine:

(a) Performance Awards may be denominated as a cash amount, number of Shares or units or a combination thereof and are Awards that may be earned upon achievement or satisfaction of performance conditions specified by the Committee. In addition, the Committee may specify that any other Award shall constitute a Performance Award by conditioning the grant to a Participant or the right of a Participant to exercise the Award or have it settled, and the timing thereof, upon achievement or satisfaction of such performance conditions as may be specified by the Committee. The Committee may use such business criteria and other measures of performance as it may deem appropriate in establishing any performance conditions. Subject to the terms of the Plan, the performance goals to be achieved during any Performance Period, the length of any Performance Period, the amount of any Performance Award granted and the amount of any payment or transfer to be made pursuant to any Performance Award shall be determined by the Committee.

(b) Performance criteria may be measured on an absolute (*e.g.*, plan or budget) or relative basis, and may be established on a corporate-wide basis, with respect to one or more business units, divisions, Subsidiaries or business segments, or on an individual basis. If the Committee determines that a change in the business, operations, corporate structure or capital structure of the Company, or the manner in which the Company conducts its business, or other events or circumstances render the performance objectives unsuitable, the Committee may modify the performance objectives or the related minimum acceptable level of achievement, in whole or in part, as the Committee deems appropriate and equitable such that it does not provide any undue enrichment or harm. Performance measures may vary from Performance Award to Performance Award and from Participant to Participant, and may be established on a stand-alone basis, in tandem or in the alternative. The Committee shall have the power to impose such other restrictions on Awards subject to this Section 10(b) as it may deem necessary or appropriate to ensure that such Awards satisfy all requirements of any applicable law, stock market or exchange rules and regulations or accounting or tax rules and regulations.

(c) Settlement of Performance Awards shall be in cash, Shares, other Awards, other property, net settlement, or any combination thereof, as determined in the discretion of the Committee.

(d) A Performance Award shall not convey to a Participant the rights and privileges of a shareholder with respect to the Share subject to such Performance Award, such as the right to vote (except as relates to Restricted Stock) or the right to receive dividends, unless and until and to the extent a Share is issued to such Participant to settle such Performance Award. The Committee, in its sole discretion, may provide that a Performance Award shall convey the right to receive dividend equivalents on the Shares subject to such Performance Award with respect to any dividends declared during the period that such Performance Award is outstanding, in which case, such dividend equivalent rights shall accumulate and shall be paid in cash or Shares on the settlement date of the Performance Award, subject to the Participant's earning of the Shares with respect to which such dividend equivalents are paid upon achievement or satisfaction of performance conditions specified by the Committee. Shares delivered upon the vesting and settlement of a Performance Award may be evidenced in such manner as the Committee may deem appropriate, including book-entry registration. For the avoidance of doubt, unless otherwise determined by the Committee, no dividend equivalent rights shall be provided with respect to any Shares subject to Performance Awards that are not earned or otherwise do not vest or settle pursuant to their terms.

(e) The Committee may, in its discretion, increase or reduce the amount of a settlement otherwise to be made in connection with a Performance Award.

Section 11. *Other Cash-Based Awards and Other Stock-Based Awards.* The Committee is authorized, subject to limitations under applicable law, to grant Other Cash-Based Awards (either independently or as an element of or supplement to any other Award under the Plan) and Other Stock-Based Awards. The Committee shall determine the terms and conditions of such Awards. Shares delivered pursuant to an Award in the nature of a purchase right granted under this Section 11 shall be purchased for such consideration, and

paid for at such times, by such methods and in such forms, including cash, Shares, other Awards, other property, net settlement, broker-assisted cashless exercise or any combination thereof, as the Committee shall determine; *provided* that the purchase price therefor shall not be less than the Fair Market Value of such Shares on the date of grant of such right.

Section 12. *Effect of Termination of Service or a Change in Control on Awards.*

(a) The Committee may provide, by rule or regulation or in any applicable Award Agreement, or may determine in any individual case, the circumstances in which, and the extent to which, an Award may be exercised, settled, vested, paid or forfeited in the event of a Participant's Termination of Service prior to the end of a Performance Period or vesting, exercise or settlement of such Award.

(b) Subject to the last sentence of Section 2(II), the Committee may determine, in its discretion, whether, and the extent to which, (i) an Award will vest during a leave of absence, (ii) a reduction in service level (for example, from full-time to part-time employment) will cause a reduction, or other change, to an Award and (iii) a leave of absence or reduction in service will be deemed a Termination of Service.

(c) In the event of a Change in Control, the Committee may, in its sole discretion, and on such terms and conditions as it deems appropriate, take any one or more of the following actions with respect to any outstanding Award, which need not be uniform with respect to all Participants and/or Awards:

(i) continuation or assumption of such Award by the Company (if it is the surviving corporation) or by the successor or surviving entity or its parent;

(ii) substitution or replacement of such Award by the successor or surviving entity or its parent with cash, securities, rights or other property to be paid or issued, as the case may be, by the successor or surviving entity (or a parent or subsidiary thereof), with substantially the same terms and value as such Award (including any applicable performance targets or criteria with respect thereto);

(iii) acceleration of the vesting of such Award and the lapse of any restrictions thereon and, in the case of an Option or SAR Award, acceleration of the right to exercise such Award during a specified period (and the termination of such Option or SAR Award without payment of any consideration therefor to the extent such Award is not timely exercised), in each case, either (A) immediately prior to or as of the date of the Change in Control, (B) upon a Participant's involuntary Termination of Service (including upon a termination of the Participant's employment by the Company (or a successor corporation or its parent) without Cause, by a Participant for "good reason" (as such term may be defined in the applicable Award Agreement and/or a Participant's Service Agreement) and/or due to a Participant's death or Disability, as the case may be) on or within a specified period following the Change in Control or (C) upon the failure of the successor or surviving entity (or its parent) to continue or assume such Award;

(iv) in the case of a Performance Award, determination of the level of attainment of the applicable performance condition(s); and

(v) cancellation of such Award in consideration of a payment, with the form, amount and timing of such payment determined by the Committee in its sole discretion, subject to the following: (A) such payment shall be made in cash, securities, rights and/or other property; (B) the amount of such payment shall equal the value of such Award, as determined by the Committee in its sole discretion; *provided* that, in the case of an Option or SAR Award, if such value equals the Intrinsic Value of such Award, such value shall be deemed to be valid; *provided further* that, if the Intrinsic Value of an Option or SAR Award is equal to or less than zero, the Committee may, in its sole discretion, provide for the cancellation of such Award without payment of any consideration therefor (for the avoidance of doubt, in the event of a Change in Control, the Committee may, in its sole discretion, terminate any Option or SAR Awards for which the exercise or hurdle price is equal to or exceeds the per Share value of the consideration to be paid in the Change in Control transaction without payment of consideration therefor); and (C) such payment shall be made promptly following such Change in Control or on a specified date or dates following such Change in Control; *provided* that the timing of such payment shall comply with Section 409A of the Code.

Section 13. *General Provisions Applicable to Awards.*

(a) Awards shall be granted for such cash or other consideration, if any, as the Committee determines; *provided* that in no event shall Awards be issued for less than such minimal consideration as may be required by applicable law.

(b) Awards may, in the discretion of the Committee, be granted either alone or in addition to or in tandem with any other Award or any award granted under any other plan of the Company. Awards granted in addition to or in tandem with other Awards, or in addition to or in tandem with awards granted under any other plan of the Company, may be granted either at the same time as or at a different time from the grant of such other Awards or awards.

(c) Subject to the terms of the Plan, payments or transfers to be made by the Company upon the grant, exercise or settlement of an Award may be made in the form of cash, Shares, other Awards, other property, net settlement, or any combination thereof, as determined by the Committee in its discretion at the time of grant, and may be made in a single payment or transfer, in installments or on a deferred basis, in each case in accordance with rules and procedures established by the Committee. Such rules and procedures may include provisions for the payment or crediting of reasonable interest on installment or deferred payments or the grant or crediting of dividend equivalents in respect of installment or deferred payments.



(d) Except as may be permitted by the Committee or as specifically provided in an Award Agreement, (i) no Award and no right under any Award shall be assignable, alienable, saleable or transferable by a Participant other than by will or pursuant to Section 13(e) and (ii) during a Participant's lifetime, each Award, and each right under any Award, shall be exercisable only by such Participant or, if permissible under applicable law, by such Participant's guardian or legal representative. The provisions of this Section 13(d) shall not apply to any Award that has been fully exercised or settled, as the case may be, and shall not preclude forfeiture of an Award in accordance with the terms thereof.

(e) A Participant may designate a Beneficiary or change a previous Beneficiary designation only at such times as prescribed by the Committee, in its sole discretion, and only by using forms and following procedures approved or accepted by the Committee for that purpose.

(f) All certificates, if any, for Shares and/or other securities delivered under the Plan pursuant to any Award or the exercise or settlement thereof shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the Plan or the rules, regulations and other requirements of the Securities and Exchange Commission, any stock market or exchange upon which such Shares or other securities are then quoted, traded or listed, and any applicable securities laws, and the Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.

(g) The Company will not be obligated to deliver any Shares under the Plan or remove restrictions from Shares previously delivered under the Plan until (i) all Award conditions have been met or removed to the Committee's satisfaction, (ii) as determined by the Committee, all other legal matters regarding the issuance and delivery of such Shares have been satisfied, including any applicable securities laws, stock market or exchange rules and regulations or accounting or tax rules and regulations and (iii) the Participant has executed and delivered to the Company such representations or agreements as the Committee deems necessary or appropriate to satisfy any applicable laws. The Company's inability to obtain authority from any regulatory body having jurisdiction, which the Committee determines is necessary to the lawful issuance and sale of any Shares, will relieve the Company of any liability for failing to issue or sell such Shares as to which such requisite authority has not been obtained.

(h) The Committee may impose restrictions on any Award with respect to non-competition, non-solicitation, confidentiality and other restrictive covenants, or requirements to comply with minimum share ownership requirements, as it deems necessary or appropriate in its sole discretion, which such restrictions may be set forth in any applicable Award Agreement or otherwise.

Section 14. *Amendments and Terminations.*

(a) *Amendment or Termination of the Plan.* Except to the extent prohibited by applicable law and unless otherwise expressly provided in an Award Agreement or in the Plan, the Board may amend, alter, suspend, discontinue or terminate the Plan or any portion thereof at any time; *provided, however,* that no such amendment, alteration, suspension, discontinuation or termination shall be made without (i) shareholder approval if such approval is required by applicable law or the rules of the stock market or exchange, if any, on which the Shares are principally quoted or traded or (ii) subject to Section 5(c) and Section 12, the consent of the affected Participant, if such action would materially adversely affect the rights of such Participant under any outstanding Award, except (x) to the extent any such amendment, alteration, suspension, discontinuance or termination is made to cause the Plan to comply with applicable law, stock market or exchange rules and regulations or accounting or tax rules and regulations or (y) to impose any “clawback” or recoupment provisions on any Awards (including any amounts or benefits arising from such Awards) in accordance with Section 18. Notwithstanding anything to the contrary in the Plan, the Committee may amend the Plan, or create sub-plans, in such manner as may be necessary or desirable to enable the Plan to achieve its stated purposes in any jurisdiction in a tax-efficient manner and in compliance with local rules and regulations.

(b) *Winding Up, Dissolution or Liquidation.* In the event of the winding up, dissolution or liquidation of the Company, each Award shall terminate immediately prior to the consummation of such action, unless otherwise determined by the Committee.

(c) *Terms of Awards.* The Committee may waive any conditions or rights under, amend any terms of, or amend, alter, suspend, discontinue or terminate any Award theretofore granted (including by substituting another Award of the same or a different type), prospectively or retroactively, without the consent of any relevant Participant or holder or Beneficiary of an Award; *provided, however,* that, subject to Section 5(c) and Section 12, no such action shall materially adversely affect the rights of any affected Participant or holder or Beneficiary under any Award theretofore granted under the Plan, except (x) to the extent any such action is made to cause the Plan or Award to comply with applicable law, stock market or exchange rules and regulations or accounting or tax rules and regulations, or (y) to impose any “clawback” or recoupment provisions on any Awards (including any amounts or benefits arising from such Awards) in accordance with Section 18. The Committee shall be authorized to make adjustments in the terms and conditions of, and the criteria included in, Awards in recognition of events (including the events described in Section 5(c)) affecting the Company, or the financial statements of the Company, or of changes in applicable laws, regulations or accounting principles, whenever the Committee determines that such adjustments are appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan.

(d) *No Repricing.* Except as provided in Section 5(c), the Committee may not, without shareholder approval, seek to effect any re-pricing of any previously granted “underwater” Option, SAR or similar Award by: (i) amending or modifying the terms of the Option, SAR or similar Award to lower the exercise price; (ii) cancelling the underwater Option, SAR or similar Award and granting either (A) replacement Options, SARs or similar Awards having a lower exercise price or (B) Restricted Shares, RSUs, Performance Awards or Other Share-Based Awards in exchange; or (iii) cancelling or repurchasing the underwater Options, SARs or similar Awards for cash or other securities. An Option, SAR or similar Award will be deemed to be “underwater” at any time when the Fair Market Value of the Shares covered by such Award is less than the exercise price of the Award.

Section 15. *Miscellaneous.*

(a) No Employee, Consultant, Non-Employee Director, Participant, or other Person shall have any claim to be granted any Award under the Plan, and there is no obligation for uniformity of treatment of employees, Participants or holders or Beneficiaries of Awards under the Plan. The terms and conditions of Awards need not be the same with respect to each recipient. Any Award granted under the Plan shall be a one-time Award that does not constitute a promise of future grants. The Company, in its sole discretion, maintains the right to make available future grants under the Plan.

(b) The grant of an Award shall not be construed as giving a Participant the right to be retained in the employ of, or to continue to provide services to, the Company or any Affiliate. Further, the Company or any applicable Affiliate may at any time dismiss a Participant, free from any liability, or any claim under the Plan, unless otherwise expressly provided in the Plan or in any Award Agreement or in any other agreement binding on the parties. The receipt of any Award under the Plan is not intended to confer any rights on the receiving Participant except as set forth in the applicable Award Agreement.

(c) In the event a Participant's regular level of time commitment in the performance of his or her services for the Company and any Affiliates is reduced (for example, and without limitation, if the Participant is an employee of the Company and the Employee has a change in status from a full-time employee to a part-time employee (or serves as a Consultant or Director) or takes an extended leave of absence) after the date of grant of any Award to the Participant, the Board may determine, to the extent permitted by applicable law, to (i) make a corresponding reduction in the number of shares or cash amount subject to any portion of such Award that is scheduled to vest or become payable after the date of such change in time commitment, and (ii) in lieu of or in combination with such a reduction, extend the vesting or payment schedule applicable to such Award. In the event of any such reduction, the Participant will have no right with respect to any portion of the Award that is so reduced or extended.

(d) As a condition to accepting an Award under the Plan, the Participant agrees to execute any additional documents or instruments necessary or desirable, as determined in the Committee's sole discretion, to carry out the purposes or intent of the Award, or facilitate compliance with securities and/or other regulatory requirements, in each case at the Committee's request.

(e) No payment pursuant to the Plan shall be taken into account in determining any benefits under any severance, pension, retirement, savings, profit sharing, group insurance, welfare or other benefit plan of the Company or any Affiliate, except to the extent otherwise expressly provided in writing in such other plan or an agreement thereunder.

(f) Nothing contained in the Plan shall prevent the Company or any Affiliate from adopting or continuing in effect other or additional compensation arrangements, including the grant of options and other stock-based awards, and such arrangements may be either generally applicable or applicable only in specific cases.

(g) The Company shall be authorized to withhold from any Award granted or any payment due or transfer made under any Award or under the Plan or from any compensation or other amount owing to a Participant the amount (in cash, Shares, other Awards, other property, net settlement, or any combination thereof) of applicable withholding taxes due in respect of an Award, its exercise or settlement or any payment or transfer under such Award or under the Plan and to take such other action (including providing for elective payment of such amounts in cash or Shares by such Participant) as may be necessary to satisfy all obligations for the payment of such taxes and, unless otherwise determined by the Committee in its discretion, to the extent such withholding would not result in liability classification of such Award (or any portion thereof) pursuant to FASB ASC Subtopic 718-10. As a condition to accepting an Award under the Plan, in the event that the amount of the Company's and/or its Affiliate's withholding obligation in connection with such Award was greater than the amount actually withheld by the Company and/or its Affiliates, each Participant agrees to indemnify and hold the Company and/or its Affiliates harmless from any failure by the Company and/or its Affiliates to withhold the proper amount.

(h) If any provision of the Plan or any Award Agreement is or becomes or is deemed to be invalid, illegal or unenforceable in any jurisdiction, or as to any Person or Award, or would disqualify the Plan or any Award under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to applicable laws, or if it cannot be so construed or deemed amended without, in the determination of the Committee, materially altering the intent of the Plan or the Award Agreement, such provision shall be stricken as to such jurisdiction, Person or Award, and the remainder of the Plan and any such Award Agreement shall remain in full force and effect.

(i) Neither the Plan nor any Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company and a Participant or any other Person. To the extent that any Person acquires a right to receive payments from the Company pursuant to an Award, such right shall be no greater than the right of any unsecured general creditor of the Company.

(j) Any reference herein or in an Award Agreement to a "written" agreement or document will include any agreement or document delivered electronically, filed publicly at [www.sec.gov](http://www.sec.gov) (or any successor website thereto) or posted on the Company's intranet (or other shared electronic medium controlled by the Company to which the Participant has access). By accepting any Award the Participant consents to receive documents by electronic delivery and to participate in the Plan through any on-line electronic system established and maintained by the Committee's or another third party selected by the Committee. The form of delivery of any Shares (e.g., a stock certificate or electronic entry evidencing such shares) shall be determined by the Company.

(k) No fractional Shares shall be issued or delivered pursuant to the Plan or any Award, and the Committee shall determine whether cash or other securities shall be paid or transferred in lieu of any fractional Shares, or whether such fractional Shares or any rights thereto shall be canceled, terminated or otherwise eliminated.

(l) Awards may be granted to Participants who are non-United States nationals or employed or providing services outside the United States, or both, on such terms and conditions different from those applicable to Awards to Participants who are employed or providing services in the United States as may, in the judgment of the Committee, be necessary or desirable to recognize differences in local law, tax policy or custom. The Committee also may impose conditions on the exercise or vesting of Awards in order to minimize the Company's obligation with respect to tax equalization for Participants on assignments outside their home country.

Section 16. *Effective Date of the Plan.* The Plan shall be effective as of the Effective Date.

Section 17. *Term of the Plan.* No Award shall be granted under the Plan after the earliest to occur of (i) the 10-year anniversary of the date on which the Plan was adopted by the Board; (ii) the maximum number of Shares available for issuance under the Plan have been issued; or (iii) the Board terminates the Plan in accordance with Section 14(a). However, unless otherwise expressly provided in the Plan or in an applicable Award Agreement, any Award theretofore granted may extend beyond such date, and the authority of the Committee to amend, alter, adjust, suspend, discontinue or terminate any such Award, or to waive any conditions or rights under any such Award, and the authority of the Board to amend the Plan, shall extend beyond such date.

Section 18. *Cancellation or "Clawback" of Awards.*

(a) The Committee may specify in an Award Agreement that a Participant's rights, payments and benefits with respect to an Award shall be subject to reduction, cancellation, forfeiture or recoupment upon the occurrence of certain specified events, in addition to any otherwise applicable vesting or performance conditions of an Award. Such events may include a Termination of Service with or without Cause (and, in the case of any Cause that is resulting from an indictment or other non-final determination, the Committee may provide for such Award to be held in escrow or abeyance until a final resolution of the matters related to such event occurs, at which time the Award shall either be reduced, cancelled or forfeited (as provided in such Award Agreement) or remain in effect, depending on the outcome), violation of material policies, breach of non-competition, non-solicitation, confidentiality or other restrictive covenants, or requirements to comply with minimum share ownership requirements, that may apply to the Participant, or other conduct by the Participant that is detrimental to the business or reputation of the Company and/or its Affiliates.

(b) The Committee shall have full authority to implement any policies and procedures necessary to comply with Section 10D of the Exchange Act and any rules promulgated thereunder and any other regulatory regimes. Notwithstanding anything to the contrary contained herein, any Awards granted under the Plan (including any amounts or benefits arising from such Awards) shall be subject to any clawback or recoupment arrangements or policies the Company has in place from time to time and the Committee may, to the extent permitted by applicable law and stock exchange rules or by any applicable Company policy or arrangement, and shall, to the extent required, cancel or require reimbursement of any Awards granted to the Participant or any Shares issued or cash received upon vesting, exercise or settlement of any such Awards or sale of Shares underlying such Awards.

Section 19. *Section 409A of the Code.* With respect to Awards subject to Section 409A of the Code, the Plan is intended to comply with the requirements of Section 409A of the Code, and the provisions of the Plan and any Award Agreement shall be interpreted in a manner that satisfies the requirements of Section 409A of the Code, and the Plan shall be operated accordingly. If any provision of the Plan or any term or condition of any Award would otherwise frustrate or conflict with this intent, the provision, term or condition shall be interpreted and deemed amended so as to avoid this conflict. Notwithstanding anything in the Plan to the contrary, if the Board considers a Participant to be a “specified employee” under Section 409A of the Code at the time of such Participant’s “separation from service” (as defined in Section 409A of the Code), and any amount hereunder is “deferred compensation” subject to Section 409A of the Code, any distribution of such amount that otherwise would be made to such Participant with respect to an Award as a result of such “separation from service” shall not be made until the date that is six months after such “separation from service,” except to the extent that earlier distribution would not result in such Participant’s incurring interest or additional tax under Section 409A of the Code. If an Award includes a “series of installment payments” (within the meaning of Section 1.409A-2(b)(2)(iii) of the Treasury Regulations), a Participant’s right to such series of installment payments shall be treated as a right to a series of separate payments and not as a right to a single payment, and if an Award includes “dividend equivalents” (within the meaning of Section 1.409A-3(e) of the Treasury Regulations), a Participant’s right to such dividend equivalents shall be treated separately from the right to other amounts under the Award. Notwithstanding the foregoing, the tax treatment of the benefits provided under the Plan or any Award Agreement is not warranted or guaranteed, and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by a Participant on account of non-compliance with Section 409A of the Code.

Section 20. *Successors and Assigns.* The terms of the Plan shall be binding upon and inure to the benefit of the Company and any successor entity, including any successor entity contemplated by Section 12(c).

Section 21. *Data Protection.* In connection with the Plan, the Company may need to process personal data provided by the Participant to the Company or its Affiliates, third party service providers or others acting on the Company's behalf. Examples of such personal data may include, without limitation, the Participant's name, account information, social security number, tax number and contact information. The Company may process such personal data in its legitimate business interests for all purposes relating to the operation and performance of the Plan, including but not limited to:

- (a) administering and maintaining Participant records;
- (b) providing the services described in the Plan;
- (c) providing information to future purchasers or merger partners of the Company or any Affiliate, or the business in which such Participant works; and
- (d) responding to public authorities, court orders and legal investigations, as applicable.

The Company may share the Participant's personal data with (i) Affiliates, (ii) trustees of any employee benefit trust, (iii) registrars, (iv) brokers, (v) third party administrators of the Plan, (vi) third party service providers acting on the Company's behalf to provide the services described above or (vii) regulators and others, as required by law.

If necessary, the Company may transfer the Participant's personal data to any of the parties mentioned above in a country or territory that may not provide the same protection for the information as the Participant's home country. Any transfer of the Participant's personal data to recipients in a third country will be made subject to appropriate safeguards or applicable derogations provided for under applicable law. Further information on those safeguards or derogations can be obtained through the contact set forth in the Employee Privacy Notice (the "Employee Privacy Notice") that previously has been provided by the Company or its applicable Affiliate to the Participant. The terms set forth in this Section 21 are supplementary to the terms set forth in the Employee Privacy Notice (which, among other things, further describes the rights of the Participant with respect to the Participant's personal data); provided that, in the event of any conflict between the terms of this Section 21 and the terms of the Employee Privacy Notice, the terms of this Section 21 shall govern and control in relation to the Plan and any personal data of the Participant to the extent collected in connection therewith.

The Company will keep personal data collected in connection with the Plan for as long as necessary to operate the Plan or as necessary to comply with any legal or regulatory requirements.

A Participant has a right to (i) request access to and rectification or erasure of the personal data provided, (ii) request the restriction of the processing of his or her personal data, (iii) object to the processing of his or her personal data, (iv) receive the personal data provided to the Company and transmit such data to another party, and (v) to lodge a complaint with a supervisory authority.

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Section 22. *Governing Law.* The Plan and each Award Agreement shall be governed by the laws of the State of Delaware, without application of the conflicts of law principles thereof.



**PROKIDNEY CORP. EMPLOYEE STOCK PURCHASE PLAN**

Section 1. *Purpose.* This ProKidney Corp. Employee Stock Purchase Plan (the “**Plan**”) is intended to provide employees of the Company and its Participating Subsidiaries with an opportunity to acquire a proprietary interest in the Company through the purchase of Shares. Initially, the Plan is not intended to qualify as an “employee stock purchase plan” under Section 423 of the Code. From and after such date as the Committee, in its discretion, determines that the Plan is able to satisfy the requirements under Section 423 of the Code and that it will operate the Plan in accordance with such requirements (such date, the “**Section 423 Effective Date**”), the Plan is intended to qualify as an “employee stock purchase plan” under Section 423 of the Code and the Plan shall be interpreted in a manner that is consistent with that intent. Except as specifically provided under Section 4, and unless the Plan is amended pursuant to Section 18(i), the operative terms of the Plan as in effect on the Effective Date will remain the same on and after the Section 423 Effective Date.

Section 2. *Definitions.*

(a) “**Articles**” means the amended and restated articles and memorandum of association of the Company, as may be amended and/or restated from time to time.

(b) “**Board**” means the Board of Directors of the Company.

(c) “**Business Combination Agreement**” means that certain Business Combination Agreement, dated as of January 18, 2022, made and entered into by and between Social Capital Suvretta Holdings Corp. III, a Cayman Islands exempted company limited by shares, and ProKidney LP, a limited partnership organized under the laws of Ireland, acting through its general partner ProKidney GP Limited, a private limited company incorporated under the laws of Ireland.

(d) “**Code**” means the Internal Revenue Code of 1986, as amended from time to time, and the rules, regulations and guidance thereunder. Any reference to a provision in the Code shall include any successor provision thereto.

(e) “**Committee**” means the Compensation Committee of the Board, unless another committee is designated by the Board. If there is no compensation committee of the Board and the Board does not designate another committee, references herein to the “Committee” shall refer to the Board.

(f) “**Company**” means ProKidney Corp., a Cayman Islands exempted company limited by shares, including any successor thereto.

(g) “**Compensation**” means, unless otherwise determined by the Committee prior to the commencement of an Offering, the base salary, wages, annual cash bonuses and commissions paid to an Eligible Employee by the Company or a Participating Subsidiary as compensation for services to the Company or Participating Subsidiary, before deduction for any salary deferral contributions made by the Eligible Employee to any tax-qualified or nonqualified deferred compensation plan.

(h) “**Corporate Transaction**” means a merger, consolidation, acquisition of property or stock, separation, reorganization or other corporate event described in Section 424 of the Code.

(i) “**Designated Broker**” means the financial services firm or other agent designated by the Company to maintain ESPP Share Accounts on behalf of Participants who have purchased Shares under the Plan.

(j) “**Effective Date**” means the latest of (i) the date on which the Plan is adopted by the Board and approved by the shareholders of the Company, (ii) July 11, 2022 and (iii) a date to be determined by the Committee.

(k) “**Eligible Employee**” means an Employee who is customarily employed for at least twenty (20) hours per week and more than five (5) months in any calendar year. Notwithstanding the foregoing, the Committee (i) may exclude from participation in the Plan or any Offering any Employees who are “highly compensated employees” or a sub-set of such “highly compensated employees” (within the meaning of Section 414(q) of the Code) or who otherwise may be excluded from participation pursuant to Treasury Regulation Section 1.423-2(e) and (ii) shall exclude any Employees located outside of the United States to the extent permitted under Section 423 of the Code.

(l) “**Employee**” means any person who renders services to the Company or a Participating Subsidiary as an employee pursuant to an employment relationship with such employer. For purposes of the Plan, the employment relationship shall be treated as continuing intact while the individual is on military leave, sick leave or other leave of absence approved by the Company or a Participating Subsidiary that meets the requirements of Treasury Regulation Section 1.421-1(h)(2). Where the period of leave exceeds three (3) months, and the individual’s right to reemployment is not provided by statute or contract, the employment relationship shall be deemed to have terminated on the first day immediately following such three-month period.

(m) “**Enrollment Form**” means an agreement pursuant to which an Eligible Employee may elect to enroll in the Plan, to authorize a new level of payroll deductions, or to stop payroll deductions and withdraw from an Offering.

(n) “**ESPP Share Account**” means an account into which Shares purchased with accumulated payroll deductions at the end of an Offering Period are deposited on behalf of a Participant.

(o) “**Exchange Act**” means the Securities Exchange Act of 1934, as amended from time to time, and the rules, regulations and guidance thereunder. Any reference to a provision in the Exchange Act shall include any successor provision thereto.

(p) “**Fair Market Value**” means, as of any date, the closing price of a Share on the applicable date of determination (or, if there is no reported sale on such date, on the last preceding date on which any reported sale occurred), on the principal stock market or exchange on which Shares are quoted or traded, or if Shares are not so quoted or traded, the fair market value of a Share as determined by the Committee, which such determination shall be conclusive and binding on all persons.

(q) “**Fully-Diluted Basis**” means all Shares outstanding on the applicable date of determination, which shall include Shares into which New Company Common Units may be exchanged pursuant to the Exchange Agreement (as such terms are defined in the Business Combination Agreement), but before giving effect to the number of Shares reserved for issuance or issued under this Plan and the Company’s 2022 Incentive Equity Plan and excluding all Earnout Shares and all Earnout Company Units (as such terms are defined in the Business Combination Agreement) on the applicable date of determination.

(r) “**Offering Date**” means the first Trading Day of each Offering Period as designated by the Committee.

(s) “**Offering**” or “**Offering Period**” means the period described in Section 5.

(t) “**Offering Period Limit**” has the meaning set forth in Section 8.

(u) “**Participant**” means an Eligible Employee who is actively participating in the Plan.

(v) “**Participating Subsidiaries**” means the Subsidiaries that have been designated by the Committee as eligible to participate in the Plan, and such other Subsidiaries that may be designated by the Committee from time to time in its sole discretion.

(w) “**Plan**” means this ProKidney Corp. Employee Stock Purchase Plan, as set forth herein, and as amended from time to time.

(x) “**Purchase Date**” means the last Trading Day of each Offering Period.

(y) “**Purchase Price**” means an amount equal to the lesser of (i) eighty-five percent (85%) (or such greater percentage as designated by the Committee) of the Fair Market Value of a Share on the Offering Date or (ii) eight-five (85%) (or such greater percentage as designated by the Committee) of the Fair Market Value of a Share on the Purchase Date; *provided* that the Purchase Price per Share will in no event be less than the par value of the Shares.

(z) “**Securities Act**” means the Securities Act of 1933, as amended from time to time, and the rules, regulations and guidance thereunder. Any reference to a provision in the Securities Act includes any successor provision thereto.

(aa) “**Share**” means a Class A ordinary share, \$0.0001 par value, in the capital of the Company.

(bb) “**Subsidiary**” means (i) on and after the Section 423 Effective Date, any corporation, domestic or foreign, in an unbroken chain of corporations beginning with the Company of which at the time of the granting of an option pursuant to Section 7, not less than 50% of the total combined voting power of all classes of stock are held by the Company or a Subsidiary, whether or not such corporation exists now or is hereafter organized or acquired by the Company or a Subsidiary; *provided, however*, that a limited liability company or partnership may be treated as a Subsidiary to the extent either (a) such entity is treated as a disregarded entity under Treasury Regulation Section 301.7701-3(a) by reason of the Company or any other Subsidiary that is a corporation being the sole owner of such entity or, (b) such entity elects to be classified as a corporation under Treasury Regulation Section 301.7701-3(a) and such entity would otherwise qualify as a Subsidiary; or (ii) prior to the Section 423 Effective Date, in addition to the entities in clause (i), “Subsidiary” shall also include any entity that, directly or indirectly, is controlled by, controls or is under common control with the Company but shall not include any entity for which the Committee or the Board has excluded its employees from participation in this Plan.

(cc) “**Trading Day**” means any day on which the national stock exchange upon which the Shares are listed is open for trading.

### Section 3. *Administration.*

(a) Administration of Plan. The Plan shall be administered by the Committee which shall have the authority to construe and interpret the Plan, prescribe, amend and rescind rules relating to the Plan’s administration and take any other actions necessary or desirable for the administration of the Plan including, without limitation, adopting sub-plans applicable to particular Participating Subsidiaries or locations, which sub-plans may be designed to be outside the scope of Section 423 of the Code. The Committee may correct any defect or supply any omission or reconcile any inconsistency or ambiguity in the Plan. The decisions of the Committee shall be final and binding on all persons. All expenses of administering the Plan shall be borne by the Company. Notwithstanding anything in the Plan to the contrary and without limiting the generality of the foregoing, the Committee shall have the authority to change the minimum and maximum amounts of Compensation for payroll deductions pursuant to Section 6(a), the frequency with which a Participant may elect to change their rate of payroll deductions pursuant to Section 6(b), the dates by which a Participant is required to submit an Enrollment Form pursuant to Section 6(b) and Section 10(a), and the effective date of a Participant’s withdrawal due to termination of employment or change in status pursuant to Section 11, and the withholding procedures pursuant to Section 18(l).

(b) Delegation of Authority. To the extent permitted by applicable law, including under the Companies Act (as amended) of the Cayman Islands, and the Articles, the Committee may delegate to (i) one or more officers of the Company some or all of its authority under the Plan and (ii) one or more committees of the Board some or all of its authority under the Plan.

Section 4. *Eligibility*. In order to participate in an Offering, an Eligible Employee must deliver a completed Enrollment Form to the Company at least five (5) business days prior to the Offering Date (unless a different time is set by the Company for all Eligible Employees with respect to such Offering) and must elect their payroll deduction rate as described in Section 6. Notwithstanding any provision of the Plan to the contrary, no Eligible Employee shall be granted an option under the Plan if (i) immediately after the grant of the option, such Eligible Employee (or any other person whose stock would be attributed to such Eligible Employee pursuant to Section 424(d) of the Code) would own stock of the Company or hold outstanding options to purchase stock of the Company possessing 5% or more of the total combined voting power or value of all classes of stock of the Company or any Subsidiary or (ii) such option would permit such Eligible Employee's rights to purchase stock under all employee stock purchase plans (described in Section 423 of the Code) of the Company and its Subsidiaries to accrue at a rate that exceeds \$25,000 of the Fair Market Value of such stock (determined at the time the option is granted) for each calendar year in which such option is outstanding at any time, in accordance with the provisions of Section 423(b)(8) of the Code.

Section 5. *Offering Periods*. The Plan shall be implemented by a series of Offering Periods, each of which shall be six (6) months in duration. The Committee shall have, prior to the commencement of a particular Offering Period, the authority to determine or change the duration, frequency, start and end dates of Offering Periods (subject to a maximum Offering Period of twenty-seven (27) months).

Section 6. *Participation*.

(a) Enrollment; Payroll Deductions. An Eligible Employee may elect to participate in the Plan by properly completing an Enrollment Form, which may be electronic, and submitting it to the Company, in accordance with the enrollment procedures established by the Committee. Participation in the Plan is entirely voluntary. By submitting an Enrollment Form, the Eligible Employee authorizes payroll deductions from their paycheck in an amount equal to at least one percent (1%), but not more than ten percent (10%) of their Compensation on each payday occurring during an Offering Period (or such other maximum percentage as the Committee may establish from time to time before an Offering Period begins). Payroll deductions shall commence as soon as administratively practicable following the Offering Date and end on the latest practicable payroll date on or before the Purchase Date. The Company shall maintain records of all payroll deductions but shall have no obligation to pay interest on payroll deductions or to hold such amounts in a trust or in any segregated account. Unless expressly permitted by the Committee, a Participant may not make any separate contributions or payments to the Plan.

(b) Election Changes. During an Offering Period, a Participant may decrease (but not increase) their rate of payroll deductions applicable to such Offering Period only once. To make such a change, the Participant must submit a new Enrollment Form authorizing the new rate of payroll deductions at least fifteen (15) days before the Purchase Date. A Participant may decrease or increase their rate of payroll deductions for future Offering Periods by submitting a new Enrollment Form authorizing the new rate of payroll deductions at least fifteen days before the start of the next Offering Period.

(c) Automatic Re-enrollment. The deduction rate selected in the Enrollment Form shall remain in effect for subsequent Offering Periods unless the Participant (i) submits a new Enrollment Form authorizing a new level of payroll deductions in accordance with Section 6(b), (ii) withdraws from the Plan in accordance with Section 10, or (iii) terminates employment or otherwise becomes ineligible to participate in the Plan.

Section 7. *Grant of Option*. On each Offering Date, each Participant in the applicable Offering Period shall be granted an option to purchase, on the Purchase Date, a number of Shares determined by dividing the Participant's accumulated payroll deductions by the applicable Purchase Price; *provided*, that in no event shall any Participant purchase more than 12,500 Shares during an Offering Period (subject to adjustment in accordance with Section 17 and the limitations set forth in Section 4 and Section 13 of the Plan) (the "**Offering Period Limit**").

Section 8. *Exercise of Option/Purchase of Shares*. A Participant's option to purchase Shares will be exercised automatically on the Purchase Date of each Offering Period. The Participant's accumulated payroll deductions will be used to purchase the maximum number of whole Shares that can be purchased with the amounts in the Participant's notional account, subject to the Offering Period Limit and the limitations set forth in Section 4 and Section 13 of the Plan. No fractional Shares may be purchased, and any contributions unused in a given Offering Period due to being less than the cost of a Share will be carried forward to the next Offering Period, subject to earlier withdrawal by the Participant in accordance with Section 10 or termination of employment or change in employment status in accordance with Section 11. Any such contributions not carried forward to the next Offering Period in accordance with the prior sentence shall be promptly refunded to the Participant. During a Participant's lifetime, the Participant's option to purchase Shares under the Plan is exercisable only by the Participant.

Section 9. *Transfer of Shares*. As soon as administratively practicable, but in no event later than thirty (30) days, after each Purchase Date, the Company will arrange for the delivery to each Participant of the Shares purchased upon exercise of the Participant's option. The Committee may permit or require that the Shares be deposited directly into an ESPP Share Account established in the name of the Participant with a Designated Broker and may require that the Shares be retained with such Designated Broker for a specified period of time. Participants will not have any voting, dividend or other rights of a shareholder with respect to the Shares subject to any option granted under the Plan until such Shares have been delivered pursuant to this Section 9.

Section 10. *Withdrawal.*

(a) Withdrawal Procedure. A Participant may withdraw from an Offering by submitting to the Company a revised Enrollment Form indicating their election to withdraw at least fifteen (15) days before the Purchase Date. The accumulated payroll deductions held on behalf of a Participant in their notional account shall be paid to the Participant promptly following receipt of the Participant's Enrollment Form indicating their election to withdraw and the Participant's option shall be automatically terminated. If a Participant withdraws from an Offering Period, no payroll deductions will be made during any succeeding Offering Period, unless the Participant re-enrolls in accordance with Section 6(a) of the Plan.

(b) Effect on Succeeding Offering Periods. A Participant's election to withdraw from an Offering Period will not have any effect upon the Participant's eligibility to participate in succeeding Offering Periods that commence following the completion of the Offering Period from which the Participant withdraws.

Section 11. *Termination of Employment; Change in Employment Status.* Notwithstanding Section 10, upon termination of a Participant's employment for any reason prior to the Purchase Date, including death, disability or retirement, or a change in the Participant's employment status following which the Participant is no longer an Eligible Employee, the Participant will be deemed to have withdrawn from an Offering in accordance with Section 10 and the payroll deductions in the Participant's notional account shall be returned to the Participant, or in the case of the Participant's death, to the person(s) entitled to such amounts by will or the laws of descent and distribution, and the Participant's option shall be automatically terminated.

Section 12. *Interest.* No interest shall accrue on or be payable with respect to the payroll deductions of a Participant in the Plan.

Section 13. *Shares Reserved for Plan.*

(a) Number of Shares. The maximum number of Shares available for issuance under the Plan (the "**Plan Share Limit**") shall not exceed in the aggregate 5,287,800 Shares; provided, however, upon the "Closing" (as defined in the Business Combination Agreement) the Plan Share Limit shall be reduced automatically to equal 2% of outstanding Shares on a Fully-Diluted Basis immediately following the Closing (for the avoidance of doubt, after giving effect to any Share redemptions in connection with the Closing), subject to the Articles and any adjustment as provided in Section 17. The Shares may be newly issued Shares, treasury Shares or Shares acquired on the open market. The Plan Share Limit shall be increased on the first day of each Company fiscal year beginning on January 1, 2023 and ending on January 1, 2032 in an amount equal to the least of (i) 5,037,800 Shares,

(ii) 1% of the aggregate number of Shares outstanding (on a Fully-Diluted Basis) on the last day of the immediately preceding fiscal year and (iii) such number of Shares as determined by the Board in its discretion; *provided* that the maximum number of Shares that may be issued under the Plan in any event shall be 15,113,400 Shares (subject to the Articles and any adjustment in accordance with Section 17). If any purchase of Shares pursuant to an option under the Plan is not consummated, the Shares not purchased under such option will again become available for issuance under the Plan.

(b) Over-subscribed Offerings. If the Committee determines that, on a particular Purchase Date, the number of Shares with respect to which options are to be exercised exceeds the number of Shares then available under the Plan, the Company shall make a pro rata allocation of the Shares remaining available for purchase in as uniform a manner as practicable and as the Committee determines to be equitable. No option granted under the Plan shall permit a Participant to purchase Shares which, if added together with the total number of Shares purchased by all other Participants in such Offering would exceed the total number of Shares remaining available under the Plan.

Section 14. *Transferability*. No payroll deductions credited to a Participant, nor any rights with respect to the exercise of an option or any rights to receive Shares hereunder may be assigned, transferred, pledged or otherwise disposed of in any way (other than by will or the laws of descent and distribution, or as provided in Section 16) by the Participant. Any attempt to assign, transfer, pledge or otherwise dispose of such rights or amounts shall be without effect.

Section 15. *Application of Funds*. All payroll deductions received or held by the Company under the Plan may be used by the Company for any corporate purpose to the extent permitted by applicable law, and the Company shall not be required to segregate such payroll deductions or contributions.

Section 16. *Designation of Beneficiary*. If permitted by the Committee, a Participant may file, on forms supplied by the Committee, a written designation of beneficiary who, in the event of the Participant's death, is to receive any Shares from the Participant's ESPP Share Account or any payroll deduction amounts remaining in the Participant's notional account.

Section 17. *Adjustments Upon Changes in Capitalization; Winding Up, Dissolution or Liquidation; Corporate Transactions*.

(a) Adjustments. In the event that any dividend or other distribution (whether in the form of cash, Shares, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Shares or other securities of the Company, or other change in the Company's structure affecting the Shares occurs, then in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, the Committee will, in such manner as it deems equitable, adjust the number of Shares and class of Shares that may be delivered under the Plan, the Purchase Price per Share and the number of Shares covered by each outstanding option under the Plan, and the numerical limits of Section 7 and Section 13.



(b) Winding Up, Dissolution or Liquidation. Unless otherwise determined by the Committee, in the event of a proposed winding up, dissolution or liquidation of the Company, any Offering Period then in progress will be shortened by setting a new Purchase Date and the Offering Period will end immediately prior to the proposed, winding up, dissolution or liquidation. The new Purchase Date will be before the date of the Company's proposed winding up, dissolution or liquidation. Before the new Purchase Date, the Committee will provide each Participant with written notice, which may be electronic, of the new Purchase Date and that the Participant's option will be exercised automatically on such date, unless before such time, the Participant has withdrawn from the Offering in accordance with Section 10 (or deemed to have withdrawn in accordance with Section 11).

(c) Corporate Transaction. In the event of a Corporate Transaction, each outstanding option will be assumed or an equivalent option substituted by the successor corporation or a parent or Subsidiary of such successor corporation. If the successor corporation refuses to assume or substitute the option, the Offering Period with respect to which the option relates will be shortened by setting a new Purchase Date on which the Offering Period will end. The new Purchase Date will occur before the date of the Corporate Transaction. Prior to the new Purchase Date, the Committee will provide each Participant with written notice, which may be electronic, of the new Purchase Date and that the Participant's option will be exercised automatically on such date, unless before such date, the Participant has withdrawn (or, pursuant to Section 11, been deemed to have withdrawn) from the Offering in accordance with Section 10. Notwithstanding the foregoing, in the event of a Corporate Transaction, the Committee may also elect to terminate all outstanding Offering Periods in accordance with Section 18(i).

Section 18. *General Provisions.*

(a) Equal Rights and Privileges. Notwithstanding any provision of the Plan to the contrary and in accordance with Section 423 of the Code, all Eligible Employees who are granted options under the Plan shall have the same rights and privileges.

(b) No Right to Continued Service. Neither the Plan nor any compensation paid hereunder will confer on any Participant the right to continue as an Employee or in any other capacity.

(c) Rights as Shareholder. A Participant will become a shareholder with respect to the Shares that are purchased pursuant to options granted under the Plan when the Shares are transferred to the Participant or, if applicable, to the Participant's ESPP Share Account. A Participant will have no rights as a shareholder with respect to Shares for which an election to participate in an Offering Period has been made until such Participant becomes a shareholder as provided herein.

(d) Successors and Assigns. The Plan shall be binding on the Company and its successors and assigns.

(e) Entire Plan. This Plan constitutes the entire plan with respect to the subject matter hereof and supersedes all prior plans with respect to the subject matter hereof.

(f) Compliance with Law. The obligations of the Company with respect to payments under the Plan are subject to compliance with all applicable laws and regulations. Shares shall not be issued with respect to an option granted under the Plan unless the exercise of such option and the issuance and delivery of the Shares pursuant thereto shall comply with all applicable provisions of law, including, without limitation, the Securities Act, the Exchange Act, and the requirements of any stock exchange upon which the Shares may then be listed.

(g) Disqualifying Dispositions. On and after the Section 423 Effective Date, each Participant shall, if requested by the Company, give the Company prompt written notice of any disposition or other transfer of Shares acquired pursuant to the exercise of an option acquired under the Plan, if such disposition or transfer is made within two years after the Offering Date or within one year after the Purchase Date.

(h) Term of Plan. The Plan shall become effective on the Effective Date and shall continue in effect until terminated pursuant to Section 18(i).

(i) Amendment or Termination. The Committee may, in its sole discretion, amend, suspend or terminate the Plan at any time and for any reason. If the Plan is terminated, the Committee may elect to terminate all outstanding Offering Periods either immediately or once Shares have been purchased on the next Purchase Date or permit Offering Periods to expire in accordance with their terms (and subject to any adjustment in accordance with Section 17). If any Offering Period is terminated before its scheduled expiration, all amounts that have not been used to purchase Shares will be returned to Participants (without interest, except as otherwise required by law) as soon as administratively practicable.

(j) Applicable Law. The laws of the State of Delaware shall govern all questions concerning the construction, validity and interpretation of the Plan, without regard to such state's conflict of law rules.

(k) Shareholder Approval. The Plan shall be subject to approval by the shareholders of the Company within twelve (12) months before or after the date the Plan is adopted by the Board.

(l) Section 423. On and after the Section 423 Effective Date, the Plan is intended to qualify as an “employee stock purchase plan” under Section 423 of the Code, and any provision of the Plan that is inconsistent with Section 423 of the Code shall be reformed to comply with Section 423 of the Code.

(m) Section 409A; Limitation of Liability. Prior to the Section 423 Effective Date, the Plan and all options are intended to be exempt from Section 409A of the Code as “short-term deferrals” within the meaning of Treasury Regulation §1.409A-1(b)(4), and on and after the Section 423 Effective Date, as “statutory stock options” within the meaning of Treasury Regulation §1.409A-1(b)(5)(ii), and the Plan and the options will be interpreted and administered accordingly. Notwithstanding anything to the contrary in the Plan, neither the Company nor the Committee, nor any person acting on behalf of the Company or the Committee, will be liable to any Participant or other person by reason of any acceleration of income, any additional tax, or any other tax or liability asserted by reason of the failure of the Plan or any option to be exempt from or satisfy the requirements of Section 409A of the Code.

(n) Withholding. To the extent required by applicable Federal, state or local law, a Participant must make arrangements satisfactory to the Company for the payment of any withholding or similar tax obligations that arise in connection with the Plan. At any time, the Company or any Subsidiary may, but will not be obligated to, withhold from a Participant’s compensation the amount necessary for the Company or any Subsidiary to meet applicable withholding obligations, including any withholding required to make available to the Company or any Subsidiary any tax deductions or benefits attributable to the sale or early disposition of Shares by such Participant. In addition, the Company or any Subsidiary may, but will not be obligated to, withhold from the proceeds of the sale of Shares or any other method of withholding that the Company or any Subsidiary deems appropriate to the extent permitted by, where applicable, Treasury Regulation Section 1.423-2(f). The Company will not be required to issue any Shares under the Plan until such obligations are satisfied.

(o) Severability. If any provision of the Plan shall for any reason be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, and the Plan shall be construed as if such invalid or unenforceable provision were omitted.

(p) Headings. The headings of sections herein are included solely for convenience and shall not affect the meaning of any of the provisions of the Plan.

(q) Participating Subsidiaries. This Plan shall constitute the Employee Stock Purchase Plan of the Company and each Participating Subsidiary. A Participating Subsidiary may withdraw from the Plan as of any Offering Date by giving written notice to the Board, which notice must be received by at least thirty (30) days prior to such Offering Date.

## FORM OF INDEMNITY AGREEMENT

THIS INDEMNITY AGREEMENT (this "*Agreement*") is made as of July 11, 2022, by and between ProKidney Corp., a Cayman Islands exempted company (the "*Company*"), and \_\_\_\_\_ ("*Indemnitee*").

## RECITALS

**WHEREAS**, highly competent persons have become more reluctant to serve publicly-held companies as directors, officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of such companies;

**WHEREAS**, the board of directors of the Company (the "*Board*") has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and of its subsidiaries, if any, from certain liabilities;

**WHEREAS**, directors, officers and other persons in service to companies or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself;

**WHEREAS**, the amended and restated memorandum and articles of association of the Company (the "*Articles*") require indemnification of the officers and directors of the Company, Indemnitee may also be entitled to indemnification pursuant to applicable Cayman Islands law and the Articles provide that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and members of the Board, officers and other persons with respect to indemnification, hold harmless, exoneration, advancement and reimbursement rights;

**WHEREAS**, the uncertainties relating to such insurance and to indemnification have increased the difficulty of attracting and retaining such persons;

**WHEREAS**, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company's shareholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

**WHEREAS**, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, hold harmless, exonerate and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law and the Articles so that they will serve or continue to serve the Company free from undue concern that they will not be so protected against liabilities;

**WHEREAS**, this Agreement is a supplement to and in furtherance of the Articles and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder; and

**WHEREAS**, Indemnitee may not be willing to serve as an officer or director, advisor or in another capacity, without adequate protection, and the Company desires Indemnitee to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that he or she be so indemnified;

**NOW, THEREFORE**, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

## TERMS AND CONDITIONS

1. **SERVICES TO THE COMPANY.** Indemnitee will serve or continue to serve as an officer, director, advisor, key employee or in any other capacity of the Company, as applicable, for so long as Indemnitee is duly elected, appointed or retained or until Indemnitee tenders his or her resignation or until Indemnitee is removed. The foregoing notwithstanding, this Agreement shall continue in full force and effect after Indemnitee has ceased to serve as a director, officer, advisor, key employee or in any other capacity of the Company, as provided in Section 17. This Agreement, however, shall not impose any obligation on Indemnitee or the Company to continue Indemnitee's service to the Company beyond any period otherwise required by law or by other agreements or commitments of the parties, if any.

2. **DEFINITIONS.** As used in this Agreement:

(a) The term "**agent**" shall mean any person who is or was a director, officer or employee of the Company or a subsidiary of the Company or other person authorized by the Company to act for the Company, to include such person serving in such capacity as a director, officer, employee, fiduciary or other official of another corporation, partnership, limited liability company, joint venture, trust or other enterprise at the request of, for the convenience of, or to represent the interests of the Company or a subsidiary of the Company.

(b) The terms "**Beneficial Owner**" and "**Beneficial Ownership**" shall have the meanings set forth in Rule 13d-3 promulgated under the Exchange Act (as defined below) as in effect on the date hereof.

(c) The term "**New York Court**" shall mean the courts of the *New York*.

(d) The term "**Change in Control**" shall mean the occurrence of the earliest to occur after the date of this Agreement of any of the following events:

(i) Acquisition of Shares by Third Party. Other than Tolerantia, LLC, Control Empresarial de Capitales, S.A. de C.V., ProKidney Management Equity LLC or any of their respective affiliates, any Person (as defined below) is or becomes the Beneficial Owner, directly or indirectly, of shares or securities of the Company representing fifteen percent (15%) or more of the combined voting power of the Company's then outstanding shares or securities entitled to vote generally in the appointment of directors, unless (1) the change in the relative Beneficial Ownership of the Company's shares or securities by any Person results solely from a reduction in the aggregate number of outstanding shares or securities entitled to vote generally in the appointment of directors, or (2) such acquisition was approved in advance by the Continuing Directors (as defined below) and such acquisition would not constitute a Change in Control under part (iii) of this definition;

(ii) Change in Board of Directors. Individuals who, as of the date hereof, constitute the Board, and any new director whose appointment by the Board or nomination for appointment by the Company's shareholders was approved by a vote of at least two thirds of the directors then still in office who were directors on the date hereof or whose appointment or nomination for appointment was previously so approved (collectively, the "**Continuing Directors**"), cease for any reason to constitute at least a majority of the members of the Board;

(iii) Corporate Transactions. The effective date of a merger, share exchange, asset acquisition, share purchase, reorganization or similar business combination involving the Company and one or more businesses (a "**Business Combination**"), in each case, unless, following such Business Combination: (1) all or substantially all of the individuals and entities who were the Beneficial Owners of shares or securities entitled to vote generally in the appointment of directors immediately prior to such Business Combination beneficially own, directly or indirectly, more than 51% of the combined voting power of the then outstanding shares or securities of the Company entitled to vote generally in the appointment of directors resulting from such Business Combination (including, without limitation, a corporation which as a result of such transaction owns the Company or all or substantially all of the Company's assets either directly or through one or more Subsidiaries (as defined below)) in substantially the same proportions as their ownership immediately prior to such Business Combination, of the shares or securities entitled to vote generally in the appointment of directors; (2) no Person (excluding any corporation resulting from such Business Combination) is the Beneficial Owner, directly or indirectly, of 15% or more of the combined voting power

of the then outstanding shares or securities entitled to vote generally in the appointment of directors of the surviving corporation except to the extent that such ownership existed prior to the Business Combination; and (3) at least a majority of the Board of Directors of the corporation resulting from such Business Combination were Continuing Directors at the time of the execution of the initial agreement, or of the action of the Board of Directors, providing for such Business Combination;

(iv) **Liquidation.** The approval by the shareholders of the Company of a complete liquidation of the Company or an agreement or series of agreements for the sale or disposition by the Company of all or substantially all of the Company's assets, other than factoring the Company's current receivables or escrows due (or, if such approval is not required, the decision by the Board to proceed with such a liquidation, sale, or disposition in one transaction or a series of related transactions); or

(v) **Other Events.** There occurs any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or any successor rule) (or a response to any similar item on any similar schedule or form) promulgated under the Exchange Act (as defined below), whether or not the Company is then subject to such reporting requirement.

(e) The term "**Companies Act**" shall mean the Companies Act (As Revised) of the Cayman Islands, as amended from time to time.

(f) The term "**Corporate Status**" describes the status of a person who is or was a director, officer, trustee, general partner, managing member, fiduciary, employee or agent of the Company or of any other Enterprise (as defined below) which such person is or was serving at the request of the Company.

(g) The term "**Disinterested Director**" shall mean a director of the Company who is not and was not a party to the Proceeding (as defined below) in respect of which indemnification is sought by Indemnitee.

(h) The term "**Enterprise**" shall mean the Company and any other corporation, constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger to which the Company (or any of its wholly owned subsidiaries) is a party, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise of which Indemnitee is or was serving at the request of the Company as a director, officer, trustee, general partner, managing member, fiduciary, employee or agent.

(i) The term "**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended.

(j) The term "**Expenses**" shall include all direct and indirect costs, fees and expenses of any type or nature whatsoever, including, without limitation, all reasonable attorneys' fees and costs, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, fees of private investigators and professional advisors, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, fax transmission charges, secretarial services and all other disbursements, obligations or expenses in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, settlement or appeal of, or otherwise participating in, a Proceeding (as defined below), including reasonable compensation for time spent by Indemnitee for which he or she is not otherwise compensated by the Company or any third party. Expenses also shall include Expenses incurred in connection with any appeal resulting from any Proceeding (as defined below), including without limitation the principal, premium, security for, and other costs relating to any cost bond, superseded bond, or other appeal bond or its equivalent. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(k) The term "**Independent Counsel**" shall mean a law firm or a member of a law firm with significant experience in matters of corporate law and neither presently is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements); or (ii) any other party to the Proceeding (as defined below) giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement.

(l) The term “**Person**” shall have the meaning as set forth in Sections 13(d) and 14(d) of the Exchange Act as in effect on the date hereof; provided, however, that “Person” shall exclude: (i) the Company; (ii) any Subsidiaries (as defined below) of the Company; (iii) any employment benefit plan of the Company or of a Subsidiary (as defined below) of the Company or of any corporation owned, directly or indirectly, by the shareholders of the Company in substantially the same proportions as their ownership of shares of the Company; and (iv) any trustee or other fiduciary holding securities under an employee benefit plan of the Company or of a Subsidiary (as defined below) of the Company or of a corporation owned directly or indirectly by the shareholders of the Company in substantially the same proportions as their ownership of shares of the Company.

(m) The term “**Proceeding**” shall include any threatened, pending or completed action, suit, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought in the right of the Company or otherwise and whether of a civil (including intentional or unintentional tort claims), criminal, administrative or investigative or related nature, in which Indemnitee was, is, will or might be involved as a party or otherwise by reason of the fact that Indemnitee is or was a director or officer of the Company, by reason of any action (or failure to act) taken by him or her or of any action (or failure to act) on his or her part while acting as a director or officer of the Company, or by reason of the fact that he or she is or was serving at the request of the Company as a director, officer, trustee, general partner, managing member, fiduciary, employee or agent of any other Enterprise, in each case whether or not serving in such capacity at the time any liability or expense is incurred for which indemnification, reimbursement, or advancement of expenses can be provided under this Agreement.

(n) The term “**servicing at the request of the Company**” shall include any service as a director, officer, employee, agent or fiduciary of the Company which imposes duties on, or involves services by, such director, officer, employee, agent or fiduciary with respect to an employee benefit plan, its participants or beneficiaries; and if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan, Indemnitee shall be deemed to have acted in a manner “**not opposed to the best interests of the Company**” as referred to in this Agreement.

(o) The term “**Subsidiary**,” with respect to any Person, shall mean any corporation, limited liability company, partnership, joint venture, trust or other entity of which a majority of the voting power of the voting equity securities or equity interest is owned, directly or indirectly, by that Person.

**3. INDEMNITY IN THIRD-PARTY PROCEEDINGS.** To the fullest extent permitted by applicable law, the Company shall indemnify, hold harmless and exonerate Indemnitee in accordance with the provisions of this Section 3 if Indemnitee was, is, or is threatened to be made, a party to or a participant (as a witness, deponent or otherwise) in any Proceeding, other than a Proceeding by or in the right of the Company to procure a judgment in its favor by reason of Indemnitee’s Corporate Status. Pursuant to this Section 3, Indemnitee shall be indemnified, held harmless and exonerated against all Expenses, judgments, liabilities, fines, penalties and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such Expenses, judgments, fines, penalties and amounts paid in settlement) actually, and reasonably incurred by Indemnitee or on his or her behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company and, in the case of a criminal Proceeding, had no reasonable cause to believe that his or her conduct was unlawful.

**4. INDEMNITY IN PROCEEDINGS BY OR IN THE RIGHT OF THE COMPANY.** To the fullest extent permitted by applicable law, the Company shall indemnify, hold harmless and exonerate Indemnitee in accordance with the provisions of this Section 4 if Indemnitee was, is, or is threatened to be made, a party to or a participant (as a witness, deponent or otherwise) in any Proceeding by or in the right of the Company to procure a judgment in its favor by reason of Indemnitee’s Corporate Status. Pursuant to this Section 4, Indemnitee shall be indemnified, held harmless and exonerated against all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good

faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company. No indemnification, hold harmless or exoneration for Expenses shall be made under this Section 4 in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudged by a court to be liable to the Company, unless and only to the extent that any court in which the Proceeding was brought or the New York Court shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification, to be held harmless or to exoneration.

**5. INDEMNIFICATION FOR EXPENSES OF A PARTY WHO IS WHOLLY OR PARTLY SUCCESSFUL.** Notwithstanding any other provisions of this Agreement, to the extent that Indemnitee was or is, by reason of Indemnitee's Corporate Status, a party to (or a participant in) and is successful, on the merits or otherwise, in any Proceeding or in defense of any claim, issue or matter therein, in whole or in part, the Company shall, to the fullest extent permitted by applicable law, indemnify, hold harmless and exonerate Indemnitee against all Expenses actually and reasonably incurred by him or her in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall, to the fullest extent permitted by applicable law, indemnify, hold harmless and exonerate Indemnitee against all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection with each successfully resolved claim, issue or matter. If Indemnitee is not wholly successful in such Proceeding, the Company also shall, to the fullest extent permitted by applicable law, indemnify, hold harmless and exonerate Indemnitee against all Expenses reasonably incurred in connection with a claim, issue or matter related to any claim, issue, or matter on which Indemnitee was successful. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

**6. INDEMNIFICATION FOR EXPENSES OF A WITNESS.** Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of his or her Corporate Status, a witness or deponent in any Proceeding to which Indemnitee is not a party, he or she shall, to the fullest extent permitted by applicable law, be indemnified, held harmless and exonerated against all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection therewith.

**7. ADDITIONAL INDEMNIFICATION, HOLD HARMLESS AND EXONERATION RIGHTS.** Notwithstanding any limitation in Sections 3, 4, or 5, the Company shall, to the fullest extent permitted by applicable law and the Articles, indemnify, hold harmless and exonerate Indemnitee if Indemnitee is a party to or threatened to be made a party to any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor) against all Expenses, judgments, fines, penalties and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such Expenses, judgments, fines, penalties and amounts paid in settlement) actually and reasonably incurred by Indemnitee in connection with the Proceeding. No indemnification, hold harmless or exoneration rights shall be available under this Section 7 on account of Indemnitee's conduct which constitutes a breach of Indemnitee's duty of loyalty to the Company or its shareholders or is an act or omission not in good faith or which involves intentional misconduct or a knowing violation of the law.

**8. CONTRIBUTION IN THE EVENT OF JOINT LIABILITY.**

(a) To the fullest extent permissible under applicable law, if the indemnification, hold harmless and/or exoneration rights provided for in this Agreement are unavailable to Indemnitee in whole or in part for any reason whatsoever, the Company, in lieu of indemnifying, holding harmless or exonerating Indemnitee, shall pay, in the first instance, the entire amount incurred by Indemnitee, whether for judgments, liabilities, fines, penalties, amounts paid or to be paid in settlement and/or for Expenses, in connection with any Proceeding without requiring Indemnitee to contribute to such payment, and the Company hereby waives and relinquishes any right of contribution it may have at any time against Indemnitee.

(b) The Company shall not enter into any settlement of any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding) unless such settlement provides for a full and final release of all claims asserted against Indemnitee.



(c) The Company hereby agrees to fully indemnify, hold harmless and exonerate Indemnitee from any claims for contribution which may be brought by officers, directors or employees of the Company other than Indemnitee who may be jointly liable with Indemnitee.

9. **EXCLUSIONS.** Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnification, advance expenses, hold harmless or exoneration payment in connection with any claim made against Indemnitee:

(a) for which payment has actually been received by or on behalf of Indemnitee under any insurance policy or other indemnity or advancement provision and which payment has not subsequently been returned, except with respect to any excess beyond the amount actually received under any insurance policy, contract, agreement, other indemnity or advancement provision or otherwise;

(b) for an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Exchange Act (or any successor rule) or similar provisions of state statutory law or common law; or

(c) except as otherwise provided in Sections 14(e)-(f) hereof, prior to a Change in Control, in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (i) the Board authorized the Proceeding (or any part of any Proceeding) prior to its initiation or (ii) the Company provides the indemnification, hold harmless or exoneration payment, in its sole discretion, pursuant to the powers vested in the Company under applicable law. Indemnitee shall seek payments or advances from the Company only to the extent that such payments or advances are unavailable from any insurance policy of the Company covering Indemnitee.

#### 10. **ADVANCES OF EXPENSES; DEFENSE OF CLAIM.**

(a) Notwithstanding any provision of this Agreement to the contrary, and to the fullest extent not prohibited by applicable law or the Articles, the Company shall pay the Expenses incurred by Indemnitee (or reasonably expected by Indemnitee to be incurred by Indemnitee within three months) in connection with any Proceeding within ten (10) days after the receipt by the Company of a statement or statements requesting such advances from time to time, prior to the final disposition of any Proceeding. Advances shall, to the fullest extent permitted by law, be unsecured and interest free. Advances shall, to the fullest extent permitted by law, be made without regard to Indemnitee's ability to repay the Expenses and without regard to Indemnitee's ultimate entitlement to be indemnified, held harmless or exonerated under the other provisions of this Agreement. Advances shall, to the fullest extent permitted by law, include any and all reasonable Expenses incurred pursuing a Proceeding to enforce this right of advancement, including Expenses incurred preparing and forwarding statements to the Company to support the advances claimed. To the fullest extent required by applicable law, such payments of Expenses in advance of the final disposition of the Proceeding shall be made only upon the Company's receipt of an undertaking, by or on behalf of Indemnitee, to repay the advanced amounts to the extent that it is ultimately determined that Indemnitee is not entitled to be indemnified, held harmless or exonerated by the Company under the provisions of this Agreement, the Articles, applicable law or otherwise. This Section 10(a) shall not apply to any claim made by Indemnitee for which an indemnification, hold harmless or exoneration payment is excluded pursuant to Section 9.

(b) The Company will be entitled to participate in the Proceeding at its own expense.

(c) The Company shall not settle any action, claim or Proceeding (in whole or in part) which would impose any Expense, judgment, fine, penalty or limitation on Indemnitee without Indemnitee's prior written consent.

## 11. PROCEDURE FOR NOTIFICATION AND APPLICATION FOR INDEMNIFICATION.

(a) Indemnitee agrees to notify promptly the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification, hold harmless or exoneration rights, or advancement of Expenses covered hereunder. The failure of Indemnitee to so notify the Company shall not relieve the Company of any obligation which it may have to Indemnitee under this Agreement, or otherwise.

(b) Indemnitee may deliver to the Company a written application to indemnify, hold harmless or exonerate Indemnitee in accordance with this Agreement. Such application(s) may be delivered from time to time and at such time(s) as Indemnitee deems appropriate in his or her sole discretion. Following such a written application for indemnification by Indemnitee, Indemnitee's entitlement to indemnification shall be determined according to Section 12(a) of this Agreement.

## 12. PROCEDURE UPON APPLICATION FOR INDEMNIFICATION.

(a) A determination, if required by applicable law, with respect to Indemnitee's entitlement to indemnification shall be made in the specific case by one of the following methods: (i) if no Change in Control has occurred, (x) by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (y) by a committee of Disinterested Directors, even though less than a quorum of the Board, or (z) if there are no Disinterested Directors, or if such Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee; or (ii) if a Change in Control has occurred, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee. The Company promptly will advise Indemnitee in writing with respect to any determination that Indemnitee is or is not entitled to indemnification, including a description of any reason or basis for which indemnification has been denied. If it is so determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten (10) days after such determination. Indemnitee shall reasonably cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any costs or Expenses (including reasonable attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom.

(b) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 12(a) hereof, the Independent Counsel shall be selected as provided in this Section 12(b). The Independent Counsel shall be selected by Indemnitee (unless Indemnitee shall request that such selection be made by the Board), and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected and certifying that the Independent Counsel so selected meets the requirements of "Independent Counsel" as defined in Section 2 of this Agreement. If the Independent Counsel is selected by the Board, the Company shall give written notice to Indemnitee advising him or her of the identity of the Independent Counsel so selected and certifying that the Independent Counsel so selected meets the requirements of "Independent Counsel" as defined in Section 2 of this Agreement. In either event, Indemnitee or the Company, as the case may be, may, within ten (10) days after such written notice of selection shall have been received, deliver to the Company or to Indemnitee, as the case may be, a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 2 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If such written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court of competent jurisdiction has determined that such objection is without merit. If, within twenty (20) days after submission by Indemnitee of a written request for indemnification pursuant to Section 11(a) hereof, no Independent Counsel shall have been selected and not objected to, either the Company or Indemnitee may petition the New York Court for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the New York Court, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 12(a) hereof. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 14(a) of this Agreement, Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

(c) The Company agrees to pay the reasonable fees and expenses of Independent Counsel and to fully indemnify and hold harmless such Independent Counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

### 13. PRESUMPTIONS AND EFFECT OF CERTAIN PROCEEDINGS.

(a) In making a determination with respect to entitlement to indemnification hereunder, the person, persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 11(b) of this Agreement, and the Company shall have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption. Neither the failure of the Company (including by the Disinterested Directors or Independent Counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by the Disinterested Directors or Independent Counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(b) If the person, persons or entity empowered or selected under Section 12 of this Agreement to determine whether Indemnitee is entitled to indemnification shall not have made a determination within thirty (30) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall, to the fullest extent permitted by law and the Articles, be deemed to have been made and Indemnitee shall be entitled to such indemnification, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a final judicial determination that any or all such indemnification is expressly prohibited under applicable law; provided, however, that such 30-day period may be extended for a reasonable time, not to exceed an additional fifteen (15) days, if the person, persons or entity making the determination with respect to entitlement to indemnification in good faith requires such additional time for the obtaining or evaluating of documentation and/or information relating thereto.

(c) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful.

(d) For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise, including financial statements, or on information supplied to Indemnitee by the directors, trustees, general partners, managers or managing members of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise, its Board, any committee of the Board or any director, trustee, general partner, manager or managing member of the Enterprise, or on information or records given or reports made to the Enterprise, its Board, any committee of the Board or any director, trustee, general partner, manager or managing member of the Enterprise, by an independent certified public accountant or by an appraiser or other expert selected by the Enterprise, its Board, any committee of the Board or any director, trustee, general partner, manager or managing member. The provisions of this Section 13(d) shall not be deemed to be exclusive or to limit in any way the other circumstances in which Indemnitee may be deemed or found to have met the applicable standard of conduct set forth in this Agreement.

(e) The knowledge and/or actions, or failure to act, of any other director, officer, trustee, partner, manager, managing member, fiduciary, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement.

#### 14. REMEDIES OF INDEMNITEE.

(a) In the event that (i) a determination is made pursuant to Section 12 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses, to the fullest extent permitted by applicable law and the Articles, is not timely made pursuant to Section 10 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 12(a) of this Agreement within thirty (30) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 5, 6, 7 or the last sentence of Section 12(a) of this Agreement within ten (10) days after receipt by the Company of a written request therefor, (v) a contribution payment is not made in a timely manner pursuant to Section 8 of this Agreement, (vi) payment of indemnification pursuant to Section 3 or 4 of this Agreement is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification, or (vii) payment to Indemnitee pursuant to any hold harmless or exoneration rights under this Agreement or otherwise is not made within ten (10) days after receipt by the Company of a written request therefor, Indemnitee shall be entitled to an adjudication by the New York Court to such indemnification, hold harmless, exoneration, contribution or advancement rights. Alternatively, Indemnitee, at his or her option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association. Except as set forth herein, the provisions of New York law (without regard to its conflict of laws rules) shall apply to any such arbitration. The Company shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) In the event that a determination shall have been made pursuant to Section 12(a) of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 14 shall be conducted in all respects as a de novo trial, or arbitration, on the merits and Indemnitee shall not be prejudiced by reason of that adverse determination. In any judicial proceeding or arbitration commenced pursuant to this Section 14, Indemnitee shall be presumed to be entitled to be indemnified, held harmless, exonerated to receive advances of Expenses under this Agreement and the Company shall have the burden of proving Indemnitee is not entitled to be indemnified, held harmless, exonerated and to receive advances of Expenses, as the case may be, and the Company may not refer to or introduce into evidence any determination pursuant to Section 12(a) of this Agreement adverse to Indemnitee for any purpose. If Indemnitee commences a judicial proceeding or arbitration pursuant to this Section 14, Indemnitee shall not be required to reimburse the Company for any advances pursuant to Section 10 until a final determination is made with respect to Indemnitee's entitlement to indemnification (as to which all rights of appeal have been exhausted or lapsed).

(c) If a determination shall have been made pursuant to Section 12(a) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 14, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law.

(d) The Company shall be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 14 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement.

(e) The Company shall indemnify and hold harmless Indemnitee to the fullest extent permitted by applicable law and the Articles against all Expenses and, if requested by Indemnitee, shall (within ten (10) days after the Company's receipt of such written request) pay to Indemnitee, to the fullest extent permitted by applicable law, such Expenses which are incurred by Indemnitee in connection with any judicial proceeding or arbitration brought by Indemnitee (i) to enforce his or her rights under, or to recover damages for breach of, this Agreement or any other indemnification, hold harmless, exoneration, advancement or contribution agreement or provision of the Articles now

or hereafter in effect; or (ii) for recovery or advances under any insurance policy maintained by any person for the benefit of Indemnitee, regardless of the outcome and whether Indemnitee ultimately is determined to be entitled to such indemnification, hold harmless or exoneration right, advancement, contribution or insurance recovery, as the case may be (unless such judicial proceeding or arbitration was not brought by Indemnitee in good faith).

(f) Interest shall be paid by the Company to Indemnitee at the legal rate under New York law for amounts which the Company indemnifies, holds harmless or exonerates, or is obliged to indemnify, hold harmless or exonerate for the period commencing with the date on which Indemnitee requests indemnification, to be held harmless, exonerated, contribution, reimbursement or advancement of any Expenses and ending with the date on which such payment is made to Indemnitee by the Company.

15. **SECURITY.** Notwithstanding anything herein to the contrary, to the extent requested by Indemnitee and approved by the Board, the Company may at any time and from time to time provide security to Indemnitee for the Company's obligations hereunder through an irrevocable bank line of credit, funded trust or other collateral. Any such security, once provided to Indemnitee, may not be revoked or released without the prior written consent of Indemnitee.

**16. NON-EXCLUSIVITY; SURVIVAL OF RIGHTS; INSURANCE; SUBROGATION.**

(a) The rights of Indemnitee as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Articles, any agreement, a vote of shareholders or a resolution of directors, or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any Proceeding (regardless of when such Proceeding is first threatened, commenced or completed) arising out of, or related to, any action taken or omitted by such Indemnitee in his or her Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in applicable law, whether by statute or judicial decision, permits greater indemnification, hold harmless or exoneration rights or advancement of Expenses than would be afforded currently under the Articles or this Agreement, then this Agreement (without any further action by the parties hereto) shall automatically be deemed to be amended to require that the Company indemnify Indemnitee to the fullest extent permitted by law. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) The Companies Act and the Articles permit the Company to purchase and maintain insurance or furnish similar protection or make other arrangements including, but not limited to, providing a trust fund, letter of credit, or surety bond ("*Indemnification Arrangements*") on behalf of Indemnitee against any liability asserted against him or her or incurred by or on behalf of him or her or in such capacity as a director, officer, employee or agent of the Company, or arising out of his or her status as such, whether or not the Company would have the power to indemnify him or her against such liability under the provisions of this Agreement or under the Companies Act, as it may then be in effect. The purchase, establishment, and maintenance of any such Indemnification Arrangement shall not in any way limit or affect the rights and obligations of the Company or of Indemnitee under this Agreement except as expressly provided herein, and the execution and delivery of this Agreement by the Company and Indemnitee shall not in any way limit or affect the rights and obligations of the Company or the other party or parties thereto under any such Indemnification Arrangement.

(c) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, trustees, partners, managing members, fiduciaries, employees, or agents of the Company or of any other Enterprise which such person serves at the request of the Company, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, trustee, partner, managing member, fiduciary, employee or agent under such policy or policies. If, at the time the Company receives notice from any source of a Proceeding as to which Indemnitee is a party or a participant (as a witness or otherwise), the Company has director and officer liability insurance in effect, the Company shall give prompt notice of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(d) In the event of any payment under this Agreement, the Company, to the fullest extent permitted by law and the Articles, shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(e) The Company's obligation to indemnify, hold harmless, exonerate or advance Expenses hereunder to Indemnitee who is or was serving at the request of the Company as a director, officer, trustee, partner, managing member, fiduciary, employee or agent of any other Enterprise shall be reduced by any amount Indemnitee has actually received as indemnification, hold harmless or exoneration payments or advancement of expenses from such Enterprise. Notwithstanding any other provision of this Agreement to the contrary, (i) Indemnitee shall have no obligation to reduce, offset, allocate, pursue or apportion any indemnification, hold harmless, exoneration, advancement, contribution or insurance coverage among multiple parties possessing such duties to Indemnitee prior to the Company's satisfaction and performance of all its obligations under this Agreement, and (ii) the Company shall perform fully its obligations under this Agreement without regard to whether Indemnitee holds, may pursue or has pursued any indemnification, advancement, hold harmless, exoneration, contribution or insurance coverage rights against any person or entity other than the Company.

(f) To the extent Indemnitee has rights to indemnification, advancement of expenses and/or insurance provided by one or more third parties (collectively, the "**Third-Party Indemnitors**") as applicable, (i) the Company shall be the indemnitor of first resort (i.e., that its obligations to Indemnitee are primary and any obligation of the Third Party Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by Indemnitee are secondary), (ii) the Company shall be required to advance the full amount of expenses incurred by Indemnitee and shall be liable for the full amount of all claims, liabilities, damages, losses, costs and expenses (including amounts paid in satisfaction of judgments, in compromises and settlements, as fines and penalties and legal or other costs and reasonable expenses of investigating or defending against any claim or alleged claim) to the extent legally permitted and as required by the terms of this Agreement, the Company's organizational documents or other agreement, without regard to any rights Indemnitee may have against the Third Party Indemnitors and (iii) the Company irrevocably waives, relinquishes and releases the Third Party Indemnitors from any and all claims against them for contribution, subrogation or any other recovery of any kind in respect thereof. No advancement or payment by the Third Party Indemnitors on behalf of Indemnitee with respect to any claim for which Indemnitee has sought indemnification from the Company shall affect the foregoing, and the Third Party Indemnitors shall have a right of contribution and be subrogated to the extent of such advancement or payment to all of the rights of recovery of Indemnitee against the Company.

**17. DURATION OF AGREEMENT.** All agreements and obligations of the Company contained herein shall continue during the period Indemnitee serves as a director or officer of the Company or as a director, officer, trustee, partner, managing member, fiduciary, employee or agent of any other corporation, partnership, joint venture, trust, employee benefit plan or other Enterprise which Indemnitee serves at the request of the Company and shall continue thereafter so long as Indemnitee shall be subject to any possible Proceeding (including any rights of appeal thereto and any Proceeding commenced by Indemnitee pursuant to Section 14 of this Agreement) by reason of his or her Corporate Status, whether or not he is acting in any such capacity at the time any liability or expense is incurred for which indemnification or advancement can be provided under this Agreement.

**18. SEVERABILITY.** If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including, without limitation, each portion of any Section, paragraph or sentence of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section, paragraph or sentence of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

## 19. ENFORCEMENT AND BINDING EFFECT.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as a director, officer or key employee of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving as a director, officer or key employee of the Company.

(b) Without limiting any of the rights of Indemnitee under the Articles as they may be amended from time to time, this Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

(c) The indemnification, hold harmless, exoneration and advancement of expenses rights provided by or granted pursuant to this Agreement shall be binding upon and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), shall continue as to an Indemnitee who has ceased to be a director, officer, employee or agent of the Company or director or officer of any other Enterprise at the Company's request, and shall inure to the benefit of Indemnitee and his or her spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

(d) The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

(e) The Company and Indemnitee agree herein that a monetary remedy for breach of this Agreement, at some later date, may be inadequate, impracticable and difficult of proof, and further agree that such breach may cause Indemnitee irreparable harm. Accordingly, the parties hereto agree that Indemnitee may, to the fullest extent permitted by law, enforce this Agreement by seeking, among other things, injunctive relief and/or specific performance hereof, without any necessity of showing actual damage or irreparable harm and that by seeking injunctive relief and/or specific performance, Indemnitee shall not be precluded from seeking or obtaining any other relief to which he may be entitled. The Company and Indemnitee further agree that Indemnitee shall, to the fullest extent permitted by law, be entitled to such specific performance and injunctive relief, including temporary restraining orders, preliminary injunctions and permanent injunctions, without the necessity of posting bonds or other undertaking in connection therewith. The Company acknowledges that in the absence of a waiver, a bond or undertaking may be required of Indemnitee by a court of competent jurisdiction, and the Company hereby waives any such requirement of such a bond or undertaking to the fullest extent permitted by law and the Articles.

**20. MODIFICATION AND WAIVER.** No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions of this Agreement nor shall any waiver constitute a continuing waiver.

**21. NOTICES.** All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (i) if delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, or (ii) mailed by certified or registered mail with postage prepaid, on the third (3rd) business day after the date on which it is so mailed:

(a) If to Indemnitee, at the address indicated on the signature page of this Agreement, or such other address as Indemnitee shall provide in writing to the Company.

(b) If to the Company, to:

ProKidney Corp.  
c/o ProKidney Corp. GP Limited  
70 Sir John Rogerson's Quay  
Dublin 2, Ireland  
Attention: Tim Bertram  
Email: Tim.Bertram@prokidney.com  
With a copy, which shall not constitute notice, to

Davis Polk & Wardwell LLP  
450 Lexington Avenue  
New York, NY 10017  
Attention: Lee Hochbaum  
Richard Truesdell  
Email: lee.hochbaum@davispolk.com  
richard.truesdell@davispolk.com

and

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.  
555 12th Street NW, Suite 1100  
Washington, D.C. 20004  
Attention: Matthew Simpson  
Email: MTSimpson@mintz.com

and

Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
New York, New York 10036  
Attention: Stuart Leblang  
Jonathan Pavlich  
Email: sleblang@akingump.com  
jpavlich@akingump.com

or to any other address as may have been furnished to Indemnitee in writing by the Company.

**22. APPLICABLE LAW AND CONSENT TO JURISDICTION.** This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 14(a) of this Agreement, to the fullest extent permitted by law, the Company and Indemnitee hereby irrevocably and unconditionally: (a) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the New York Court and not in any state or federal court in the United States of America or any court in any other country; (b) consent to submit to the exclusive jurisdiction of the New York Court for purposes of any action or proceeding arising out of or in connection with this Agreement; (c) waive any objection to the laying of venue of any such action or proceeding in the New York Court; and (d) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the New York Court has been brought in an improper or inconvenient forum, or is subject (in whole or in part) to a jury trial.

**23. IDENTICAL COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.



24. **MISCELLANEOUS.** Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

25. **PERIOD OF LIMITATIONS.** No legal action shall be brought and no cause of action shall be asserted by or in the right of the Company against Indemnitee, Indemnitee's spouse, heirs, executors or personal or legal representatives after the expiration of two years from the date of accrual of such cause of action, and any claim or cause of action of the Company shall be extinguished and deemed released unless asserted by the timely filing of a legal action within such two-year period; provided, however, that if any shorter period of limitations is otherwise applicable to any such cause of action such shorter period shall govern.

26. **ADDITIONAL ACTS.** If for the validation of any of the provisions in this Agreement any act, resolution, approval or other procedure is required to the fullest extent permitted by law, the Company undertakes to cause such act, resolution, approval or other procedure to be affected or adopted in a manner that will enable the Company to fulfill its obligations under this Agreement.

27. **WAIVER OF CLAIMS TO TRUST ACCOUNT.** Notwithstanding anything contained herein to the contrary, Indemnitee hereby agrees that it does not have any right, title, interest or claim of any kind (each, a "**Claim**") in or to any monies in the trust account established in connection with the Company's initial public offering for the benefit of the Company and holders of shares issued in such offering (the "**Trust Account**"), and hereby waives any Claim it may have in the future as a result of, or arising out of, any services provided to the Company and will not seek recourse against such Trust Account for any reason whatsoever. Accordingly, Indemnitee acknowledges and agrees that any indemnification provided hereto will only be able to be satisfied by the Company if (i) the Company has sufficient funds outside of the Trust Account to satisfy its obligations hereunder or (ii) the Company consummates an initial business combination.

28. **MAINTENANCE OF INSURANCE.** The Company shall use commercially reasonable efforts to obtain and maintain in effect during the entire period for which the Company is obligated to indemnify the Indemnitee under this Agreement, one or more policies of insurance with reputable insurance companies to provide the officers/directors of the Company with coverage for losses from wrongful acts and omissions and to ensure the Company's performance of its indemnification obligations under this Agreement. The Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director or officer under such policy or policies. In all such insurance policies, the Indemnitee shall be named as an insured in such a manner as to provide the Indemnitee with the same rights and benefits as are accorded to the most favorably insured of the Company's directors and officers.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Indemnity Agreement to be signed as of the day and year first above written.

**PROKIDNEY CORP.**

By: \_\_\_\_\_  
Name: Timothy A. Bertram  
Title: Chief Executive Officer and Director

**INDEMNITEE**

By: \_\_\_\_\_  
Name:  
Address:

*[Signature Page to Indemnity Agreement]*

July 15, 2022

Office of the Chief Accountant  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549

Ladies and Gentlemen:

We have read the statements made by ProKidney Corp. under Item 4.01 of its Form 8-K dated July 15, 2022. We agree with the statements concerning our Firm under Item 4.01. We are not in a position to agree or disagree with other statements contained therein.

Very truly yours,

/s/ Marcum LLP

Marcum LLP  
New York, NY

**Subsidiaries of the Registrant**

<b><u>Entity Name</u></b>	<b><u>Jurisdiction of Organization</u></b>
ProKidney Corp. GP Limited	Ireland
ProKidney LP	Ireland
ProKidney (f/k/a RegenMed (Cayman) Ltd.)	Cayman Islands
ProKidney, LLC (f/k/a Twin City Bio LLC)	Delaware



**Revolutionary Chronic Kidney Disease Therapeutics Company ProKidney to List on the Nasdaq  
Following Business Combination with Social Capital Suvretta Holdings Corp. III**

- *ProKidney Class A ordinary shares to begin trading on Nasdaq under the ticker symbol "PROK" on July 12, 2022*
- *ProKidney receives total gross proceeds of approximately \$597 million, expected to fund Phase 3 study of REACT™*
- *PIPE is led by a \$125 million investment from Social Capital, with an additional \$50 million from existing ProKidney investors, approximately \$30 million from Suvretta Capital's Averill strategy and the remaining \$370 million from institutional investors and family offices*
- *Proceeds will fund ongoing Phase 2 and 3 development program for ProKidney's lead cell therapy candidate, REACT™, accelerate manufacturing scale-out, and ultimately prepare for its global commercial launch to treat patients with late-stage chronic kidney disease ("CKD") and at high risk of kidney failure, assuming receipt of regulatory approvals*

**Winston-Salem, NC & Palo Alto, CA** – July 12, 2022 – ProKidney LP ("ProKidney"), a leading late clinical-stage cellular therapeutics company focused on CKD, and Social Capital Suvretta Holdings Corp. III ("SCS") (Nasdaq: DNAC), a special purpose acquisition company, today completed their previously announced business combination. The newly formed company is named ProKidney Corp. and its Class A ordinary shares will commence trading on the Nasdaq Capital Market ("Nasdaq") under the symbol "PROK" on July 12, 2022.

The business combination was approved by SCS's shareholders at an extraordinary meeting held on July 11, 2022. ProKidney intends to use the proceeds received from the transaction to continue accelerating the development of its lead autologous cell therapy candidate, REACT™ (Renal Autologous Cell Therapy), which is currently being evaluated in multiple Phase 2 and 3 clinical trials as a treatment for late-stage diabetic CKD approaching kidney failure. Based on clinical data generated to date, ProKidney believes that REACT™ has the potential to not only slow the progression of CKD, but in some cases to drive meaningful improvement in kidney function in patients with late-stage CKD – a groundbreaking first for CKD therapies that may delay or possibly prevent the need for dialysis in these patients.

**Tim Bertram, founder and CEO of ProKidney, said:** "At ProKidney, we have the potential to usher in a new era of better health for the millions of CKD patients worldwide who have few or no other options but to progress into renal failure. Based on the clinical observations of broad organ function enhancements, this therapy has the potential to have a tangible positive impact on patients' quality of life while also providing meaningful economic benefits for the global healthcare system. We are grateful to the SCS team and our talented advisors for their support throughout this process, and excited to begin our next phase of growth and advancement as a public company."

**Pablo Legorreta, Chairman of the ProKidney board, added:** "ProKidney has made tremendous progress advancing its groundbreaking REACT™ cell therapy for the treatment of CKD. The completion of the business combination marks another important milestone in ProKidney's journey that will better enable our leadership team to execute on its strategic vision and realize the great potential of REACT™."

On behalf of ProKidney's Board and management team I would like to welcome our new investors and thank them for their strong support."

Mr. Legorreta continued, "I have been inspired both by the science behind ProKidney's novel approach to treating CKD and the keen focus of the ProKidney team on curing this intractable disease. This transaction is a validation of ProKidney's momentum and, most importantly, will support ProKidney's efforts to complete Phase 3 and eventually deploy the pioneering REACT™ therapy, bringing hope for the treatment of a medical condition that is so pervasive and takes such a toll on the lives of millions."

A cell therapy produced from a patient's own kidney cells, REACT™ comprises a proprietary mixture of progenitor cells that are grown, purified, and then placed back into the patient's kidney. This minimally invasive procedure, which begins with a standard biopsy, injects cells that harness the body's intrinsic ability to repair and restore damaged kidney tissue. The injection procedure has been shown to be better tolerated than contemporary biopsy and can be done repeatedly in one or both kidneys based on multiple Phase 2 trial findings.

ProKidney's patented REACT™ therapy is the outcome of almost 20 years of development by ProKidney and its predecessors and is part of its broad-based intellectual property strategy. The company has filed more than 200 patents worldwide for its product, cell admixture, and manufacturing and quality processes.

ProKidney's management team, led by founder and CEO Tim Bertram, brings over 200 years of combined experience in the discovery, development, manufacture, and commercialization of biotechnology, pharmaceutical, and device products. ProKidney is also led by an experienced board, chaired by Pablo Legorreta, founder and CEO of Royalty Pharma, the world's largest publicly listed acquirer of pharmaceutical royalty streams, bringing broad financial and scientific expertise with his successful track record in biopharma development and investing.

The ProKidney board of directors also includes Dr. Brian Pereira, President and CEO of Visterra, Inc., former president and board member of the National Kidney Foundation and former editor of the widely read textbook "Chronic Kidney Disease, Dialysis, and Transplantation"; Dr. John M. Maraganore, founding Chief Executive Officer of Alnylam Pharmaceuticals, Inc.; William Doyle, founder and Chairman of Novocure; Dr. Alan Lotvin, M.D., Executive Vice President of CVS Health and President of CVS Caremark, CVS Health's pharmacy benefits manager; Dr. Uma Sinha, Chief Scientific Officer at BridgeBio Pharma; Jennifer Fox, Chief Financial Officer of Nuvation Bio; and José Ignacio Jimenez Santos, Chief Executive Officer of Grupo Financiero Inbursa.

As a result of the business combination, ProKidney has received approximately \$597 million prior to transaction-related expenses, including approximately \$20 million held in SCS's trust account with the remaining amount from PIPE investors, which includes \$125 million from Social Capital and an additional \$50 million from existing ProKidney investors. The Company expects that the proceeds from the transaction will be sufficient to fund operations through data from its ongoing Phase 3 study of REACT™ in diabetic CKD.

#### **Advisors**

Citigroup acted as sole financial advisor and capital markets advisor to ProKidney. Citigroup, Morgan Stanley, Evercore, Jefferies, and UBS acted as placement agents for a portion of the PIPE. BofA Securities acted as capital markets advisor to SCS. Wachtell, Lipton, Rosen & Katz acted as legal advisor to SCS. Davis Polk & Wardwell LLP, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., Akin Gump Strauss Hauer & Feld LLP, Matheson LLP, and Walkers LLP acted as legal advisors to ProKidney. Winston & Strawn LLP acted as legal advisor to the PIPE placement agents.

## **About ProKidney**

ProKidney, a pioneer in the treatment of chronic kidney disease (CKD) through innovations in cellular therapy, was founded in 2015 after a decade of research. ProKidney's lead product candidate, REACT™ (Renal Autologous Cell Therapy), is a first-of-its-kind, patented disease-modifying autologous cellular therapy with the potential to not only slow and stabilize the progression of CKD, but in some cases drive meaningful improvement in kidney function. REACT™ has received Regenerative Medicine Advanced Therapy (RMAT) designation, as well as FDA and EMA guidance, supporting its ongoing Phase 3 clinical program, which launched in January 2022. For more information, visit [www.prokidney.com](http://www.prokidney.com).

## **About Social Capital Suvretta Holdings Corp. III**

Social Capital Suvretta Holdings Corp. III is led by Chamath Palihapitiya and Kishen Mehta and is a blank check company formed for the purpose of effecting a merger, amalgamation, share exchange, asset acquisition, share purchase, reorganization or similar business combination with one or more businesses. The company is focused on businesses operating in the biotechnology industry and within the organ space subsector. To learn more about Social Capital Suvretta Holdings, visit <https://www.socialcapitalsuvrettaholdings.com/>.

## **Forward-Looking Statements**

This press release includes “forward-looking statements” within the meaning of the “safe harbor” provisions of the Private Securities Litigation Reform Act of 1995. ProKidney's actual results may differ from its expectations, estimates and projections and consequently, you should not rely on these forward-looking statements as predictions of future events. Words such as “expect,” “estimate,” “project,” “budget,” “forecast,” “anticipate,” “intend,” “plan,” “may,” “will,” “could,” “should,” “believes,” “predicts,” “potential,” “continue,” and similar expressions (or the negative versions of such words or expressions) are intended to identify such forward-looking statements. These forward-looking statements include, without limitation, the combined company's expectations with respect to financial results, future performance, development and commercialization of products, if approved, the potential benefits and impact of the combined company's products, if approved, potential regulatory approvals, anticipated financial impacts and other effects of the business combination on the combined company's business, and the size and potential growth of current or future markets for the combined company's products, if approved. Most of these factors are outside of the combined company's control and are difficult to predict. Factors that may cause such differences include, but are not limited to: the inability to maintain the listing of the combined company's Class A ordinary shares on the Nasdaq following the business combination; the inability to implement business plans, forecasts, and other expectations and to recognize the anticipated benefits of the business combination or identify and realize additional opportunities, which may be affected by, among other things, competition and the ability of the combined company to grow and manage growth profitably and retain its key employees; the risk of downturns and a changing regulatory landscape in the highly competitive biotechnology industry; the inability of the combined company to raise financing in the future; the inability of the combined company to obtain and maintain regulatory clearance or approval for its products, and any related restrictions and limitations of any cleared or approved product; the inability of the combined company to identify, in-license or acquire additional technology; the inability of combined company to compete with other companies currently marketing or engaged in the biologics market and in the area of treatment of kidney diseases; the size and growth potential of the markets for the combined company's products, if approved, and its ability to serve those markets, either alone or in partnership with others; the combined company's estimates regarding expenses, future revenue, capital requirements and needs for additional financing; the combined company's financial performance; the combined company's intellectual property rights; uncertainties inherent in cell therapy research and development, including the actual time it takes to initiate and complete clinical studies and the timing and content of decisions made by regulatory authorities; the impact of COVID-19 or geo-political conflict such as the war in Ukraine on the combined company's business; and other risks and uncertainties indicated from time to time in the proxy statement relating to the business combination, including those under “Risk Factors” therein, and in the combined company's other filings with the Securities and Exchange Commission. The combined company cautions readers that the foregoing list of factors is not exclusive and cautions readers not to place undue reliance upon any forward-looking statements, which speak only as of the date made. The combined company does not undertake or accept any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements to reflect any change in its expectations or any change in events, conditions or circumstances on which any such statement is based.

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**Contact Information****ProKidney:***Investors*

Lee Roth

[lroth@burnsmc.com](mailto:lroth@burnsmc.com)**Social Capital Suvretta:***Media*

Reze Wong

[reze@socialcapital.com](mailto:reze@socialcapital.com)

Kala Krishnan

[kala.krishnan@fgsglobal.com](mailto:kala.krishnan@fgsglobal.com)[scs-us@fgsglobal.com](mailto:scs-us@fgsglobal.com)



**UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION**

*In this section, unless the context otherwise requires, the “combined company” or “ProKidney” refer to ProKidney Corp. (formerly Social Capital Suvretta Holdings Corp. III) and its subsidiaries after the Closing, “SCS” refers to SCS prior to the Closing, and “Legacy ProKidney” refers to ProKidney LP and its subsidiaries prior to the Closing.*

The following unaudited pro forma condensed combined financial information for the three months ended March 31, 2022 and for the year ended December 31, 2021 combines the historical statement of operations of SCS and the historical consolidated statement of operations of Legacy ProKidney, giving effect to the Business Combination as if it had occurred on January 1, 2021. The unaudited pro forma condensed combined balance sheet as of March 31, 2022 combines the historical balance sheet of SCS and Legacy ProKidney, giving effect to the Business Combination as if it had occurred on March 31, 2022, and the unaudited pro forma condensed combined balance sheet as of December 31, 2021 combines the historical balance sheet of SCS and Legacy ProKidney, giving effect to the Business Combination as if it had occurred on December 31, 2021.

The following unaudited pro forma condensed combined financial information presents the combination of the financial information of SCS and Legacy ProKidney, adjusted to give effect to the Business Combination and other events contemplated by the Business Combination Agreement. The following unaudited pro forma condensed combined financial information has been prepared in accordance with Article 11 of Regulation S-X as amended by the final rule, Release 33-10786 “Amendments to Financial Disclosures about Acquired and Disposed Businesses.”

The unaudited pro forma condensed combined financial information has been prepared to illustrate the effect of the Business Combination and has been prepared for informational purposes only. The unaudited pro forma condensed combined statement of operations is not necessarily indicative of what the actual results of operations would have been had the Business Combination taken place on the date indicated, nor is it indicative of the future consolidated results of operations of the combined company. The pro forma adjustments were based on the information available as of the date of these unaudited pro forma condensed combined financial statements and are subject to change as additional information becomes available and analyses are performed. Actual results may differ materially from the assumptions within the accompanying unaudited pro forma condensed combined financial information.

On July 11, 2022, SCS and Legacy ProKidney consummated the Business Combination pursuant to the Business Combination Agreement. The historical financial information has been adjusted to give pro forma effect to the following events that are related and/or directly attributable to the Business Combination. The following pro forma condensed combined financial statements presented herein reflect the actual redemption of 22,829,769 Class A ordinary shares in conjunction with the shareholder vote on the Business Combination contemplated by the Business Combination Agreement at the extraordinary general meeting held on July 11, 2022.

The following summarizes the pro forma share ownership of the combined company's Class A ordinary shares after giving effect to the Business Combination.

	<b>New ProKidney Ordinary Shares</b>	<b>Ownership</b>
Public Shareholders	2,170,231	0.9%
Sponsor	6,890,000	2.9%
Third Party PIPE Investors	36,840,000	15.3%
Sponsor Related PIPE Investors	15,640,000	6.5%
ProKidney Unitholders (including the ProKidney Related PIPE Investors)	180,000,000	74.5%
Total Shares Outstanding	241,540,231	100.00%

The unaudited pro forma condensed combined financial information is based on and should be read in conjunction with:

- the accompanying notes to the unaudited pro forma condensed combined financial information;
- the historical unaudited condensed financial statements of SCS as of and for the three months ended March 31, 2022, the historical audited condensed financial statements for SCS as of December 31, 2021 and for the period from February 25, 2021 (date of inception) through December 31, 2021, and the related notes, in each case, included elsewhere in this prospectus;
- the historical unaudited consolidated financial statements of Legacy ProKidney as of and for the three months ended March 31, 2022, the historical audited consolidated financial statements of Legacy ProKidney as of and for the year ended December 31, 2021, and the related notes, in each case, included elsewhere in this prospectus; and
- other information relating to SCS and Legacy ProKidney contained in this prospectus, including the Business Combination Agreement and the description of certain terms thereof set forth under "*Summary of the Prospectus — Background and Business Combination,*" as well as the disclosures contained in "*Management's Discussion and Analysis of Financial Condition and Results of Operations.*"

**UNAUDITED PRO FORMA CONDENSED COMBINED BALANCE SHEETS MARCH 31, 2022**  
(in thousands, except share and per share amounts)

	SCS Historical	ProKidney Historical	Transaction Accounting Adjustments (Note 3)	Note	Proforma Combined
<b>Current assets</b>					
Cash and cash equivalents	\$ 52	\$ 29,802	\$ 531,461	(a)	\$561,315
Prepaid assets	543	592	—		1,135
Prepaid clinical	—	4,855	—		4,855
Other current assets	—	—	—		—
Total current assets	<u>595</u>	<u>35,249</u>	<u>531,461</u>		<u>567,305</u>
Investments held in Trust Account	250,034	—	(250,034)	(b)	—
Fixed assets, net	—	11,103	—		11,103
Right of use assets, net	—	1,673	—		1,673
Deferred offering costs	—	5,108	(5,108)	(c)	—
Intangible assets, net	—	374	—		374
Other long term assets	124	—	—		124
Total assets	<u>\$ 250,753</u>	<u>\$ 53,507</u>	<u>\$ 276,319</u>		<u>\$580,579</u>
<b>Current liabilities</b>					
Accounts payable	\$ 27	\$ 2,509	\$ (34)		\$ 2,502
Lease liabilities	—	328	—		328
Accrued expenses and other	5,342	8,117	—		13,459
Related party notes payable	—	20,000	(20,000)	(d)	—
Income taxes payable	—	958	—		958
Advances from related party	44	—	(44)	(e)	—
Total current liabilities	<u>5,413</u>	<u>31,912</u>	<u>(20,078)</u>		<u>17,247</u>
<b>Long term liabilities</b>					
Deferred underwriting fee payable	7,700	—	(7,700)	(f)	—
Lease liabilities, net of current portion	—	1,428	—		1,428
Tax Receivable Agreement liability	—	—	—	(g)	—
<b>Temporary equity:</b>					
Class A ordinary shares subject to possible redemption	250,000	—	(250,000)	(h)	—
Redeemable noncontrolling interest	—	—	422,491	(i)	422,491
<b>PubCo:</b>					
Pubco Class A Common Stock	—	—	58	(j),(h),(o)	58
Pubco Class B Common Stock	—	—	18	(k)	18
<b>SCS:</b>					
SCS Preference shares, \$0.0001 par value	—	—	—		—
SCS Class A ordinary shares, \$0.0001 par value	—	—	—		—
SCS Class B ordinary shares, \$0.0001 par value	1	—	(1)	(o)	—
<b>ProKidney:</b>					
ProKidney - Class A Units	—	186,500	(186,500)	(k)	—
ProKidney - Class B Units	—	62,663	(62,663)	(k)	—
Additional paid-in capital	—	—	131,531	(k),(l)	131,531
Accumulated deficit	<u>(12,361)</u>	<u>(228,996)</u>	<u>249,163</u>	(k)	<u>7,806</u>
Total equity	<u>(12,360)</u>	<u>20,167</u>	<u>131,606</u>		<u>139,413</u>
Total liabilities, redeemable noncontrolling interest and equity	<u>\$ 250,753</u>	<u>\$ 53,507</u>	<u>\$ 276,319</u>		<u>\$580,579</u>

**UNAUDITED PRO FORMA CONDENSED COMBINED BALANCE SHEETS DECEMBER 31, 2021**  
(in thousands, except share and per share amounts)

	SCS Historical	ProKidney Historical	Transaction Accounting Adjustments (Note 3)	Note	Proforma Combined
<b>Current assets</b>					
Cash and cash equivalents	\$ 440	\$ 20,558	\$ 551,493	(a)	\$572,491
Prepaid assets	505	588	—		1,093
Prepaid clinical	—	6,100	—		6,100
Other current assets	—	25	—		25
Total current assets	<u>945</u>	<u>27,271</u>	<u>551,493</u>		<u>579,709</u>
Investments held in Trust Account	250,008	—	(250,008)	(b)	—
Fixed assets, net	—	11,358	—		11,358
Right of Use assets, net	—	1,241	—		1,241
Intangible assets, net	—	428	—		428
Other long term assets	248	—	—		248
Total assets	<u>\$ 251,201</u>	<u>\$ 40,298</u>	<u>\$ 301,485</u>		<u>\$592,984</u>
<b>Current liabilities</b>					
Accounts payable	\$ 1,870	\$ 2,834	\$ —		\$ 4,704
Lease liabilities	—	267	—		267
Accrued expenses and other	—	9,213	—		9,213
Advances from related party	10	—	(10)	(c)	—
Total current liabilities	<u>1,880</u>	<u>12,314</u>	<u>(10)</u>		<u>14,184</u>
<b>Long term liabilities</b>					
Deferred underwriting fee payable	7,700	—	(7,700)	(d)	—
Lease liabilities, net of current portion	—	1,067	—		1,067
Tax Receivable Agreement liability	—	—	—	(m)	—
<b>Temporary equity:</b>					
Class A ordinary shares subject to possible redemption	250,008	—	(250,008)	(e)	—
Redeemable noncontrolling interest	—	—	430,480	(f)	430,480
<b>PubCo:</b>					
Pubco Class A Common Stock	—	—	58	(g),(e),(l)	58
Pubco Class B Common Stock	—	—	18	(h)	18
<b>SCS:</b>					
SCS Preference shares, \$0.0001 par value	—	—	—		—
SCS Class A ordinary shares, \$0.0001 par value	—	—	—		—
SCS Class B ordinary shares, \$0.0001 par value	1	—	(1)	(l)	—
<b>ProKidney:</b>					
ProKidney - Class A Units	—	186,500	(186,500)	(h)	—
ProKidney - Class B Units	—	1,927	(1,927)	(h)	—
Additional paid-in capital			128,648	(h),(i)	128,648
Accumulated deficit	<u>(8,388)</u>	<u>(161,510)</u>	<u>188,427</u>	(h)	<u>18,529</u>
Total equity	<u>(8,387)</u>	<u>26,917</u>	<u>128,723</u>		<u>147,253</u>
Total liabilities, redeemable noncontrolling interest and equity	<u>\$ 251,201</u>	<u>\$ 40,298</u>	<u>\$ 301,485</u>		<u>\$592,984</u>

**UNAUDITED PRO FORMA CONDENSED COMBINED STATEMENTS OF OPERATIONS**  
**FOR THE THREE MONTHS ENDED MARCH 31, 2022**  
(in thousands, except share and per share amounts)

	<u>SCS Historical</u>	<u>ProKidney Historical</u>	<u>Transaction Accounting Adjustments (Note 3)</u>	<u>Note</u>	<u>Proforma Combined</u>
Operating expenses					
Research and development	\$ —	\$ 28,490	\$ —		\$ 28,490
Operation and formation costs	4,006	—	—		4,006
General and administrative	—	37,972	—		37,972
Total operating expenses	<u>4,006</u>	<u>66,462</u>	<u>—</u>		<u>70,468</u>
Operating loss	(4,006)	(66,462)	—		(70,468)
Other income					
Interest expense	—	(14)	—		(14)
Interest income	25	—	(8)	(aa)	17
Total other income	25	(14)	(8)		3
Net loss before income taxes	(3,981)	(66,476)	(8)		(70,465)
Income tax expense	—	1,010	—	(bb)	1,010
Net loss	<u>(3,981)</u>	<u>(67,486)</u>	<u>(8)</u>		<u>(71,475)</u>
Net loss attributable to noncontrolling interest	—	—	(53,264)	(cc)	(53,264)
Net loss available to Class A Common Stock	<u>\$ (3,981)</u>	<u>\$ (67,486)</u>	<u>\$ 53,256</u>		<u>\$ (18,211)</u>
Weighted average Class A Common Stock, basic and diluted					<u>61,540,231</u>
Net loss per share attributable to Class A Common Stock, basic and diluted					<u>\$ (0.30)</u> (dd)

**UNAUDITED PRO FORMA CONDENSED COMBINED STATEMENTS OF OPERATIONS**  
**FOR THE YEAR ENDED DECEMBER 31, 2021**  
(in thousands, except share and per share amounts)

	<u>SCS Historical</u>	<u>ProKidney Historical</u>	<u>Transaction Accounting Adjustments (Note 3)</u>	<u>Note</u>	<u>Proforma Combined</u>
Operating expenses					
Research and development	\$ —	\$ 46,255	\$ —		\$ 46,255
Operation and formation costs	2,333		—		2,333
General and administrative	—	8,855	—		8,855
Total operating expenses	<u>2,333</u>	<u>55,110</u>	<u>—</u>		<u>57,443</u>
Operating loss	(2,333)	(55,110)	—		(57,443)
Other income					
Interest income	<u>8</u>	<u>2</u>	<u>(8)</u>	(aa)	<u>2</u>
Total other income	<u>8</u>	<u>2</u>	<u>(8)</u>		<u>2</u>
Net loss before income taxes	(2,325)	(55,108)	(8)		(57,441)
Income tax expense	<u>—</u>	<u>38</u>	<u>—</u>	(bb)	<u>38</u>
Net loss	<u>(2,325)</u>	<u>(55,146)</u>	<u>(8)</u>		<u>(57,479)</u>
Net loss attributable to noncontrolling interest	<u>—</u>	<u>—</u>	<u>(42,834)</u>	(cc)	<u>(42,834)</u>
Net loss available to Class A Common Stock	<u>\$ (2,325)</u>	<u>\$ (55,146)</u>	<u>\$ 42,826</u>		<u>\$ (14,645)</u>
Weighted average Class A Common Stock, basic and diluted					<u>61,540,231</u>
Net loss per share attributable to Class A Common Stock, basic and diluted					<u>\$ (0.24)</u> (dd)

## 1. Description of Transaction

On July 11, 2022, SCS and Legacy ProKidney consummated the Business Combination contemplated by the Business Combination Agreement.

Following the Closing, the combined company was organized in an umbrella partnership-C corporation (or “*Up-C*”) structure, and the combined company’s direct assets consisted of Post-Combination ProKidney Common Units and all of the issued and outstanding equity interests of GP, which replaced Legacy GP as the general partner of Legacy ProKidney upon the Closing, and substantially all of the operating assets and business of the combined company is held indirectly through Legacy ProKidney, as described further below. ProKidney is domiciled in the Cayman Islands.

Pursuant to the Business Combination Agreement, the following transactions occurred:

- prior to the Closing: (i) Legacy ProKidney amended and restated the ProKidney Limited Partnership Agreement to be in the form of the Second Amended and Restated ProKidney Limited Partnership Agreement, which became effective upon the completion of the Business Combination; (ii) GP amended and restated its constitution, which became effective upon the completion of the Business Combination; (iii) SCS amended and restated the Memorandum and Articles of Association to be in the form of the Second Amended and Restated Memorandum and Articles of Association, which became effective upon the completion of the Business Combination; (iv) (A) each issued and outstanding Legacy ProKidney Class B Unit that was not vested pursuant to the terms of the applicable award agreement with the applicable holder as of such time was recapitalized into one PMEL RCU, which would, when vested in accordance with the applicable award agreement, automatically convert into a Post-Combination ProKidney Common Unit (and the associated Legacy ProKidney Class B PMEL RSR would vest) and (B) all other issued and outstanding Legacy ProKidney Class A Units and ProKidney Class B Units were recapitalized into an aggregate number of Post-Combination ProKidney Common Units equal to (x) 175,000,000 minus (y) the number of PMEL RCUs issued pursuant to the foregoing clause (A); (v) Legacy ProKidney completed a restructuring of PMEL; and (vi) Legacy ProKidney issued 5,000,000 Post-Combination ProKidney Common Units pursuant to certain Subscription Agreements in connection with the exercise of election by certain holders to purchase Post-Combination ProKidney Common Units in lieu of SCS Class A ordinary shares; and
- at the Closing: (i) Legacy ProKidney issued to SCS a number of Post-Combination ProKidney Common Units equal to the number of fully diluted outstanding SCS ordinary shares as of immediately prior to the Closing (but after giving effect to all redemptions of SCS Class A ordinary shares and the purchase of SCS Class A ordinary shares and/or Post-Combination ProKidney Common Units pursuant to the PIPE Investment), in exchange for (a) (x) ProKidney Class B ordinary shares, which shares have no economic rights but entitle the holders thereof to vote on all matters on which shareholders of the combined company are entitled to vote generally, and (y) ProKidney Class B PMEL RSRs, which shall convert into ProKidney Class B ordinary shares upon the vesting of the associated PMEL RCUs (as described above), (b) an amount in cash equal to the aggregate proceeds obtained by SCS in the PIPE Investment and (c) an amount in cash equal to the aggregate proceeds available for release to SCS from the Trust Account (after giving effect to all redemptions of SCS Class A ordinary shares and after payment of any deferred underwriting commissions being held in the Trust Account and payment of certain transaction expenses); (ii) Legacy GP resigned as the general partner of Legacy ProKidney and GP was admitted as the general partner of Legacy ProKidney; (iii) Legacy ProKidney distributed to the Closing ProKidney Unitholders the ProKidney Class B ordinary shares and ProKidney Class B PMEL RSRs received pursuant to clause (i) (a) (x) and (y) above; and (iv) the Earnout Participants received the Earnout Rights, which Earnout Rights will vest in three equal tranches upon the achievement of certain ProKidney share price milestones or certain change of control events. When vested, the Earnout RCUs will automatically convert into Post-Combination ProKidney Common Units and the associated Earnout RSRs will automatically convert into ProKidney Class B ordinary shares, respectively.

Pursuant to the Exchange Agreement as described elsewhere in this prospectus, each Post-Combination ProKidney Common Unit, together with one Class B ordinary share, is generally exchangeable for one Class A ordinary share, subject to certain procedures and restrictions.

### ***Basis of Presentation and Accounting Policies***

The unaudited pro forma condensed combined financial information has been adjusted to include transaction accounting adjustments related to the Business Combination in accordance with GAAP.

We determined that the Business Combination qualified as a common control transaction and, therefore, was accounted for akin to a reverse recapitalization, with no goodwill or other intangible assets recorded, in accordance with GAAP. Legacy ProKidney is considered the accounting acquirer primarily based on the evaluation of the following facts and circumstances:

Under the guidance in ASC 805 for transactions between entities under common control, the assets, liabilities, and noncontrolling interests of Legacy ProKidney and SCS were recognized at their carrying amounts on the date of the Business Combination. Under this method of accounting, SCS was treated as the “acquired” company for financial reporting purposes. Accordingly, for accounting purposes, the Business Combination was treated as the equivalent of Legacy ProKidney issuing stock for the net assets of SCS, accompanied by a recapitalization. The net assets of SCS were stated at their historical value within the pro formas with no goodwill or other intangible assets recorded.

- The individual controlling Legacy ProKidney prior to the Business Combination also controls the combined company as a result of the Voting Agreement, which provides Tolerantia with the majority of the votes related to the appointment and removal of the majority of the Board;
- The Legacy ProKidney unitholders prior to the Closing comprise a majority of the voting power of the combined company following the Closing;
- Senior management of Legacy ProKidney prior to the Closing comprise the senior management of the combined company following the Closing; and
- The operations of Legacy ProKidney prior to the Closing comprise the ongoing operations of the combined company following the Closing.

Upon completion of the Business Combination, GP became the sole general partner of Legacy ProKidney. Giving effect to the redemption of 22,829,769 Class A ordinary shares, ProKidney has the sole voting interest in Legacy ProKidney through its ownership of GP. As a result, ProKidney consolidated the financial results of Legacy ProKidney and reports a non controlling interest related to the Post-Combination ProKidney Units held by Legacy ProKidney’s investors prior to the Closing on ProKidney’s consolidated balance sheet. The computation of the non controlling interest following the Closing, is as follows:

	<u>Units</u>	<u>Percentage</u>
Interest in ProKidney LP held by the Issuer	61,540,231	25.5%
Noncontrolling interest in the Issuer	180,000,000	74.5%
Total	<u>241,540,231</u>	<u>100.0%</u>

### ***Proposed Accounting Treatment of the Earnout Rights***

As discussed in this Note 1, the Earnout Participants received 17,500,000 Earnout Rights upon Closing. Upon satisfaction, during the five-year period after the Closing, of certain volume weighted average price (“VWAP”) thresholds, or a change in control with a per share price exceeding the VWAP thresholds within a five-year period immediately following the Closing, the Earnout Rights will automatically vest and convert into Post-Combination ProKidney Common Units and ProKidney Class B ordinary shares. As the Business Combination was accounted for as a reverse recapitalization, the issuance of the Earnout Rights to the Legacy ProKidney unitholders was accounted for as an equity transaction. Since the Earnout Rights were payable to the Legacy ProKidney unitholders (i.e., the accounting acquirer in the business combination), the accounting for the Earnout Rights arrangement did not fall under Accounting Standards Codification (“ASC”) Topic 805, Business Combinations nor Topic 718, Stock Compensation.



The accounting for the Earnout Rights was also evaluated under ASC Topic 480, Distinguishing Liabilities from Equity, to determine if the arrangement should be classified as a liability. As part of that preliminary analysis, it was determined that the Earnout Rights did not meet the criteria to be accounted for as a liability. Additionally, the Earnout Rights were evaluated under ASC Topic 815, Derivatives. As part of that preliminary analysis, it was determined that the Earnout Rights met the definition of a derivative; however, they meet the scope exception criteria as they were clearly and closely related to the entity's own stock, and met the criteria for equity treatment. Therefore, an adjustment to recognize the Earnout Rights would have no net impact on any financial statement line item as it would simultaneously increase and decrease additional paid-in capital. Thus, no adjustment has been applied to the unaudited pro forma combined financial information related to the Earnout Rights.

## 2. Adjustments to Unaudited Pro Forma Condensed Combined Financial Information

The unaudited pro forma condensed combined financial information has been prepared in accordance with Article 11 of Regulation S-X. The adjustments in the unaudited pro forma condensed combined financial information have been identified and presented to provide relevant information necessary for an illustrative understanding of the combined company upon consummation of the Business Combination in accordance with GAAP.

The unaudited pro forma condensed combined financial information has been presented for illustrative purposes only and is not necessarily indicative of the operating results and financial position that would have been achieved had the Business Combination occurred on the dates indicated. The unaudited pro forma condensed combined financial information does not purport to project the future operating results or financial position of ProKidney following the completion of the Business Combination. The unaudited pro forma adjustments represent management's estimates based on information available as of the date of this unaudited pro forma condensed combined financial information and are subject to change as additional information becomes available and analyses are performed. SCS and Legacy ProKidney did not have any historical relationship prior to the transactions. Accordingly, no pro forma adjustments were required to eliminate activities between the companies.

The unaudited pro forma condensed combined financial statements give effect to the redemption of 22,829,769 Class A ordinary shares.

## 3. Transaction Adjustments

*Adjustments to Unaudited Pro Forma Condensed Combined Balance Sheet as of March 31, 2022*

(a) Represents pro forma adjustments to cash and cash equivalents to reflect the following:

<u>(in thousands)</u>	<u>Note</u>	
SCS cash held in Trust Account	(1)	\$ 250,034
Payment of deferred underwriting fees	(2)	(7,700)
PIPE Financing	(3)	574,800
Payment to redeeming Public Stockholders	(4)	(228,329)
Payment of other transaction costs	(5)	(37,300)
Repayment of related party notes payable	(6)	(20,000)
Repayment of related party advance	(7)	(44)
Excess cash to balance sheet from Business Combination		<u>\$ 531,461</u>

- (1) Reflects the liquidation and reclassification of investments held in the Trust Account to cash and cash equivalents.
- (2) Reflects the payment of \$7.7 million of underwriters' fees deferred by SCS and which were paid at the Closing.
- (3) Reflects the gross proceeds of \$574.8 million from the issuance and sale of 57.5 million ProKidney Class A ordinary shares at \$10.00 per share pursuant to the Subscription Agreements entered into with PIPE Investors in connection with the PIPE Investment.
- (4) Represents the payments made to the holders of SCS Class A ordinary shares in connection with the redemption of 22,829,769 SCS Class A ordinary shares.
- (5) Represents transaction costs of \$37.3 million incurred by Legacy ProKidney prior to, or concurrent with, the Closing that were cash settled upon Closing in accordance with the Business Combination Agreement. Of that amount, approximately \$17.5 million related to investment transaction fees; \$11.9 million related to equity financing fees associated with the PIPE Investment, and the remaining \$7.9 million related to direct and incremental costs such as legal, tax, accounting, third-party advisory and other miscellaneous fees. This amount excluded the \$7.7 million of deferred underwriting fees related to the SCS initial public offering as described in note (2) above, any amounts relating to the ProKidney Promissory Notes, which were repaid at the Closing, and other SCS transaction costs.

- (6) Represents repayment of amounts drawn on ProKidney Promissory Notes.
- (7) Repayment of related party advance.
- (b) Reflects the liquidation and reclassification of investments held in the Trust Account to cash and cash equivalents.
- (c) Represents reclassification of Legacy ProKidney deferred offering costs incurred through March 31, 2022 to additional paid in capital as an offset to the proceeds from the transaction.
- (d) Reflects repayment of amounts drawn on the ProKidney Promissory Notes.
- (e) Repayment of related party advance.
- (f) Reflects the payment of \$7.7 million of underwriters' fees deferred by SCS for which payment is due upon the Closing.
- (g) Upon the completion of the Business Combination, the combined company became a party to the Tax Receivable Agreement. Under the terms of the Tax Receivable Agreement, the combined company is required to pay to certain parties to the agreement 85% of the tax savings that it is deemed to realize in certain circumstances as a result of certain tax attributes that exist following the Transaction and that are created thereafter, including as a result of payments made under the Tax Receivable Agreement. The combined company does not expect to record net deferred tax assets related to the tax basis adjustments associated with the exchange of Paired Interests as those deferred tax assets are not more likely than not expected to be realized in accordance with ASC 740—Income Taxes. Accordingly, the combined company has not recorded a liability related to the Tax Receivable Agreement as of December 31, 2021, as the liability is not considered to be probable in accordance with ASC 450—Contingencies.
- (h) Reflects the reclassification of SCS Class A ordinary shares, giving effect to the redemption of 22,829,769 SCS Class A ordinary shares.
- (i) As discussed in Note 1 to these unaudited pro forma condensed consolidated financial statements, the combined company will consolidate ProKidney, but does not own 100% of the economic interest in ProKidney. The noncontrolling interest reflecting actual redemptions is 74.5%.
- (j) Reflects the gross proceeds of \$574.8 million, net of an adjustment for the associated par value, from the issuance and sale of 57.5 million ProKidney Class A ordinary shares at \$10.00 per share pursuant to the Subscription Agreements entered into with PIPE Investors in connection with the PIPE Investment.
- (k) Represents the recapitalization of the Legacy ProKidney Class A and Class B Units upon issuance of ProKidney Class B ordinary shares and Class B PMEL RSRs to Closing ProKidney Unitholders.
- (l) Represents pro forma adjustments to additional paid in capital to reflect the following:

<u>(in thousands)</u>	<u>Note</u>	
PIPE Financing	(j)	\$ 574,743
Reclassification of common stock subject to redemption to permanent equity	(h)	21,705
Issuance of Class B ordinary shares to existing ProKidney owners	(k)	(18)
Transaction related fees	(m)	(37,300)
Issuance of Earnout Shares	(n)	—
Reclassification of ProKidney deferred offering costs to equity upon close	(c)	(5,108)
Noncontrolling interest	(i)	(422,491)
Adjusted additional paid in capital		<u>\$ 131,531</u>

- (m) Represents transaction costs of \$37.3 million incurred by Legacy ProKidney prior to, or concurrent with, the Closing that were cash settled upon Closing in accordance with the Business Combination Agreement. Of that amount, approximately \$17.5 million related to investment transaction fees; \$11.9 million related to equity financing fees associated with the PIPE financing and the remaining \$7.9 million related to direct and incremental costs such as legal, tax, accounting, third-party advisory and other miscellaneous fees. This amount excluded the \$7.7 million of deferred underwriting fees related to the SCS initial public offering as described in note (2) above, any amounts relating to the ProKidney Promissory Notes, which were repaid at the Closing, and other SCS transaction costs.

- (n) Represents the issuance of 17,500,000 Earnout Rights to Earnout Participants upon Closing. As discussed in Note 2 to the unaudited condensed consolidated financial statements, the adjustment to recognize the Earnout Rights would have no net impact on any financial statement line item as it would simultaneously increase and decrease additional paid-in capital.
- (o) Represents the exchange of SCS Class A ordinary shares, SCS Class B ordinary shares and related director restricted stock units held by the Sponsor and an independent director of SCS for ProKidney Class A ordinary shares.

*Adjustments to Unaudited Pro Forma Condensed Combined Statement of Operations for the Three Months Ended March 31, 2022*

- (aa) Represents the adjustment to eliminate interest income related to the investment held in Trust Account.
- (bb) Does not reflect a pro forma adjustment to income tax expense as Legacy ProKidney has historically been in a net loss position. Legacy ProKidney files as a partnership for federal and state income tax purposes. As such, each partner is responsible for reporting income or loss to the extent required by federal and state income tax regulations, based upon their respective share of Legacy ProKidney income and expenses. ProKidney-US is a limited liability company and has elected to be treated as a C corporation, therefore, a provision for federal and state taxes has been recorded. Income tax expense of the combined company may differ from historical results due to the change in structure of ProKidney.
- (cc) Represents the adjustment for the net loss attributable to noncontrolling interest. The noncontrolling interest, giving effect to redemptions, is 74.5%.
- (dd) Represents the loss per share calculated using the historical weighted average shares outstanding, and the issuance of additional shares in connection with the Business Combination, assuming the shares were outstanding since January 1, 2021. As the Business Combination and related equity transactions are being reflected as if they had occurred at the beginning of the period presented, the calculation of weighted average shares outstanding for basic and diluted net income per share assumes that the shares issuable relating to the Business Combination were outstanding for the entirety of the period presented.

*Adjustments to Unaudited Pro Forma Condensed Combined Balance Sheet as of December 31, 2021*

- (a) Represents pro forma adjustments to cash and cash equivalents to reflect the following:

<u>(in thousands)</u>	<u>Note</u>	
SCS cash held in Trust Account	(1)	\$ 250,008
Payment of deferred underwriting fees	(2)	(7,700)
PIPE Financing	(3)	574,800
Payment to redeeming Public Stockholders	(4)	(228,305)
Payment of other transaction costs	(5)	(37,300)
Repayment of related party advance	(6)	(10)
<b>Excess cash to balance sheet from Business Combination</b>		<b><u>\$ 551,493</u></b>

- (1) Reflects the liquidation and reclassification of investments held in the Trust Account to cash and cash equivalents.
- (2) Reflects the payment of \$7.7 million of underwriters' fees deferred by SCS and which were paid at the Closing.
- (3) Reflects the gross proceeds of \$574.8 million from the issuance and sale of 57.5 million ProKidney Class A ordinary shares at \$10.00 per share pursuant to the Subscription Agreements entered into with PIPE Investors in connection with the PIPE Investment.
- (4) Represents the payments made to the holders of SCS Class A ordinary shares in connection with the redemption of 22,829,769 SCS Class A ordinary shares.
- (5) Represents transaction costs of \$37.3 million incurred by Legacy ProKidney prior to, or concurrent with, the Closing that were cash settled upon Closing in accordance with the Business Combination Agreement. Of that amount, approximately \$17.5 million related to investment transaction fees; \$11.9 million related to equity financing fees associated with the PIPE financing and the remaining \$7.9 million related to direct and

incremental costs such as legal, tax, accounting, third-party advisory and other miscellaneous fees. This amount excludes the \$7.7 million of deferred underwriting fees related to the SCS initial public offering as described in note (2) above, any amounts relating to the ProKidney Promissory Notes, which were repaid at the Closing, and other SCS transaction costs.

- (6) Repayment of related party advance.
- (b) Reflects the liquidation and reclassification of investments held in the Trust Account to cash and cash equivalents.
  - (c) Repayment of related party advance.
  - (d) Reflects the payment of \$7.7 million of underwriters' fees deferred by SCS and which were paid at the Closing.
  - (e) Reflects the reclassification of SCS Class A ordinary shares, giving effect to the redemption of 22,829,769 SCS Class A ordinary shares.
  - (f) As discussed in Note 1 to these unaudited pro forma condensed consolidated financial statements, the combined company will consolidate ProKidney but does not own 100% of the economic interest in Legacy ProKidney. The noncontrolling interest reflecting actual redemptions is 74.5%.
  - (g) Reflects the gross proceeds of \$574.8 million, net of an adjustment for the associated par value, from the issuance and sale of 57.5 million ProKidney Class A ordinary shares at \$10.00 per share pursuant to the Subscription Agreements entered into with PIPE Investors in connection with the PIPE Investment.
  - (h) Represents the recapitalization of the Legacy ProKidney Class A and Class B Units upon issuance of ProKidney Class B ordinary shares and Class B PMEL RSRs to Closing ProKidney Unitholders.
  - (i) Represents pro forma adjustments to additional paid in capital to reflect the following:

<u>(in thousands)</u>	<u>Note</u>	
PIPE Financing	(g)	\$ 574,743
Reclassification of common stock subject to redemption to permanent equity	(e)	21,703
Issuance of Class B ordinary shares to existing ProKidney owners	(h)	(18)
Transaction related fees	(j)	(37,300)
Issuance of Earnout Shares	(k)	—
Noncontrolling interest	(f)	(430,480)
<b>Adjusted additional paid in capital</b>		<b><u>\$ 128,648</u></b>

- (j) Represents transaction costs of \$37.3 million incurred by Legacy ProKidney prior to, or concurrent with, the Closing that were cash settled upon Closing in accordance with the Business Combination Agreement. Of that amount, approximately \$17.5 million related to investment transaction fees; \$11.9 million related to equity financing fees associated with the PIPE financing and the remaining \$7.9 million related to direct and incremental costs such as legal, tax, accounting, third-party advisory and other miscellaneous fees. This amount excluded the \$7.7 million of deferred underwriting fees related to the SCS initial public offering as described in note (2) above, any amounts relating to the ProKidney Promissory Notes, which were repaid at the Closing, and other SCS transaction costs.
- (k) Represents the issuance of 17,500,000 Earnout Rights to Earnout Participants upon Closing. As discussed in Note 2 to the unaudited condensed consolidated financial statements, the adjustment to recognize the Earnout Rights would have no net impact on any financial statement line item as it would simultaneously increase and decrease additional paid-in capital.
- (l) Represents the exchange of SCS Class A ordinary shares, SCS Class B ordinary shares and related director restricted stock units held by the Sponsor and an independent director of SCS for ProKidney Class A ordinary shares.
- (m) Upon the completion of the Business Combination, the combined company became a party to the Tax Receivable Agreement. Under the terms of the Tax Receivable Agreement, the combined company is required to pay to certain parties to the agreement 85% of the tax savings that it is deemed to realize in

certain circumstances as a result of certain tax attributes that exist following the Transaction and that are created thereafter, including as a result of payments made under the Tax Receivable Agreement. The combined company does not expect to record net deferred tax assets related to the tax basis adjustments associated with the exchange of Paired Interests as those deferred tax assets are not more likely than not expected to be realized in accordance with ASC 740—Income Taxes. Accordingly, the combined company has not recorded a liability related to the Tax Receivable Agreement as of December 31, 2021, as the liability is not considered to be probable in accordance with ASC 450—Contingencies.

*Adjustments to Unaudited Pro Forma Condensed Combined Statement of Operations for the Year Ended December 31, 2021*

- (aa) Represents the adjustment to eliminate interest income related to the investment held in Trust Account.
- (bb) Does not reflect a pro forma adjustment to income tax expense as Legacy ProKidney has historically been in a net loss position. Legacy ProKidney files as a partnership for federal and state income tax purposes. As such, each partner is responsible for reporting income or loss to the extent required by federal and state income tax regulations, based upon their respective share of Legacy ProKidney income and expenses. ProKidney-US is a limited liability company and has elected to be treated as a C corporation, therefore, a provision for federal and state taxes has been recorded. Income tax expense of the combined company may differ from historical results due to the change in structure of ProKidney.
- (cc) Represents the adjustment for the net loss attributable to noncontrolling interest. The noncontrolling interest, giving effect to actual redemptions, is 74.5%.
- (dd) Represents the loss per share calculated using the historical weighted average shares outstanding, and the issuance of additional shares in connection with the Business Combination, assuming the shares were outstanding since January 1, 2021. As the Business Combination and related equity transactions are being reflected as if they had occurred at the beginning of the period presented, the calculation of weighted average shares outstanding for basic and diluted net income per share assumes that the shares issuable relating to the Business Combination were outstanding for the entirety of the period presented.