

## **Additional Article 23 Disclosures for BioPharma Credit plc (the "Company")**

**20 September 2018**

This document should be read alongside the prospectus published by the Company dated 14 March 2018 (the "**Prospectus**"). The performance fee described in the Prospectus (whether in summary or in full) has been superseded in its entirety by the performance fee as described below.

Pursuant to changes made in the Investment Management Agreement entered into by the Company and Pharmakon Advisors L.P. (the "**Investment Manager**") on 25 May 2018, as approved by Shareholders at the Annual General Meeting of the Company on 29 June 2018, and on 19 September 2018, the Performance Fee payable to the Investment Manager shall be determined as follows:

### **1. PERFORMANCE FEE**

- 1.1 Subject to the satisfaction of the Performance Conditions, in respect of each Performance Period, the Investment Manager (or, where the Investment Manager so directs, any associate of the Investment Manager) shall be entitled to receive an amount equal to the lesser of:
  - 1.1.1 50 per cent. of the Excess Total Return relating to the Performance Period; and
  - 1.1.2 10 per cent. of the Total Return relating to the Performance Period,the amounts payable to the Investment Manager (or its associate) in accordance with this paragraph 1.1, being the "Performance Fee".
- 1.2 The Investment Manager's entitlement to a Performance Fee in respect of any Performance Period shall be conditional on the Company having generated, based on the Closing NAV relating to such Performance Period, a minimum 0% annualized rate of return from the end of the last Performance Period in respect of which a Performance Fee (or a Deferred Performance Fee) was payable (the "**Last Performance Period**") to the Investment Manager (or an associate) by the Company through to the end of the relevant Performance Period, (the "**High Watermark Condition**"). The calculation of the annualised rate of return will (i) use the Closing NAV of the Last Performance Period as the initial cost; (ii) take into account dividends (which will be deemed paid on the Ex-Dividend Date), (iii) take into account the gross proceeds of new Ordinary Share issuances or conversions of C Shares into Ordinary Shares, and (iv) take into account the gross disbursements of Ordinary Share repurchases, in each case, since Admission; provided that where the Investment Manager would have been entitled to a Performance Fee under paragraph 1.1 but the payment of such Performance Fee in full would result in the High Watermark Condition not being satisfied immediately following such payment, the Investment Manager would only be entitled to the portion of the Performance Fee that does not result in the failure of the High Watermark Condition.
- 1.3 In addition to the High Watermark Condition, the Investment Manager's entitlement to a Performance Fee in respect of any Performance Period shall also be conditional on the Company having generated, based on the Closing NAV relating to such Performance Period, a minimum 6 per cent. annualised rate of return on the Gross Proceeds from the time of Admission through to the end of the Performance Period (the "**Compounding Condition**" and together with the High Watermark Condition, the "**Performance Conditions**"), where the calculation of the annualised rate of return will take into account dividends (which will be deemed paid on the Ex-Dividend Date), the gross proceeds of new Ordinary Share issuances or conversions of C Shares into Ordinary Shares, and the gross disbursements of Ordinary Share repurchases, in each case, since Admission; provided that:
  - 1.3.1 where the Investment Manager would have been entitled to a Performance Fee under paragraphs 1.1 and 1.2 and is not so entitled solely because the Compounding Condition has not been satisfied; the amount of such Performance Fee to which the Investment Manager would have been entitled (the "**Deferred Performance Fee**") shall, subject to paragraph 1.3.2, be payable to the Investment Manager at the end of the first subsequent Performance Period with respect to which the Compounding Condition is satisfied;

- 1.3.2 where the Investment Manager would have been entitled to a Performance Fee under paragraphs 1.1 and 1.2 but the payment of such Performance Fee in full would result in the Compounding Condition not being satisfied immediately following such payment; the Investment Manager would be entitled to 50 per cent. of the portion of the Performance Fee that does not result in the failure of the Compounding Condition and the difference would become part of the Deferred Performance Fee and be payable in accordance with paragraph 1.3.1; and
- 1.3.3 where the Investment Manager would have been entitled to a Deferred Performance Fee under paragraphs 1.3.1 or 1.3.2 but the payment of such Deferred Performance Fee in full would result in the Compounding Condition not being satisfied immediately following such payment; the Investment Manager would be entitled to 50 per cent. of the portion of the Deferred Performance Fee that does not result in the failure of the Compounding Condition and the difference would remain part of the Deferred Performance Fee and be payable in accordance with paragraph 1.3.1.
- 1.4 The Performance Fee for a Performance Period and any Deferred Performance Fee payable under paragraph 1.3, shall be paid as soon as practicable after the end of the relevant Performance Period and, in any event, within 15 Business Days of the publication of the Company's audited annual financial statements relating to the Performance Period.
- 1.5 The Company and the Investment Manager agree that the provisions of the revised Investment Management Agreement are intended to reflect the calculations set out in the model agreed between the Company and the Investment Manager on 24 May 2018 (the "**Model**") (as evidenced by an email exchange between the Investment Manager and the Company attaching the Model and acknowledging agreement). The Company and the Investment Manager (and, where appropriate, the Auditors) shall use the Model as an aid in the event of any doubts or disagreements over the intended operation of the provisions of the revised Investment Management Agreement. The Company and the Investment Manager may agree to make such adjustments to the Model or the provisions of the revised Investment Management Agreement as may be considered fair, reasonable and necessary to give effect to the commercial intentions of the parties. Where the Company and the Investment Manager are unable to agree on the Performance Fee (or the Deferred Performance Fee) payable in respect of a Performance Period, the matter shall be referred to independent accountants as agreed between the Company and the Investment Manager or failing such agreement, appointed by the President of the Institute of Chartered Accountants in England and Wales (acting as an expert and not an arbitrator), whose decision shall be treated as final.
- 1.6 For the avoidance of doubt, the Performance Fee shall be exclusive of any value added tax (or any equivalent tax) that may be applicable.

## 2. **PERFORMANCE SHARES**

- 2.1 If, during the last month of a Performance Period (which, in respect of any Deferred Performance Fee, will be the Performance Period in which such Deferred Performance Fee is payable), the Ordinary Shares have, on average, traded at a discount of 1 per cent. or more to the Net Asset Value per Ordinary Share (calculated by comparing the middle market quotation of the Ordinary Shares at the end of each Business Day in the month to the prevailing published Net Asset Value per Ordinary Share (exclusive of any dividend declared) as at the end of such Business Day and averaging this comparative figure over the month), the Investment Manager shall (or shall procure that its associate does) apply 50 per cent. of any Performance Fee paid by the Company to the Investment Manager (or its associate) in respect of that Performance Period and under paragraphs 1.3 and 1.4 above if applicable (net of all taxes and charges applicable to such portion of the Performance Fee) to make market acquisitions of Ordinary Shares (the "**Performance Shares**") as soon as practicable following the payment of the Performance Fee by the Company to the Investment Manager (or its associate) and at least until such time as the Ordinary Shares have, on average, traded at a discount of less than 1 per cent. to the Net Asset Value per Ordinary Share over a period of 5 Business Days (calculated by comparing the middle market quotation of the Ordinary Shares at the end of each such Business Day to the prevailing published Net Asset Value per Ordinary Share (exclusive of any dividend declared) as at the end of such Business Day and averaging

this comparative figure over the period of 5 Business Days); provided that the obligation set out in this paragraph 2.1:

- 2.1.1 shall not apply to the extent that the acquisition of the Performance Shares would require the Investment Manager to make a mandatory bid under Rule 9 of the UK City Code on Takeovers and Mergers (the "**Code**"); and
  - 2.1.2 shall expire at the end of the Performance Period which immediately follows the Performance Period to which the obligation relates.
- 2.2 The Investment Manager agrees to neither offer, sell, contract to sell, pledge, mortgage, charge, assign, grant options over, or otherwise dispose of, directly or indirectly, any Performance Shares nor to mandate a third party to do so on his behalf, or announce the intention to do so (together, a "**Disposal**") for a period of 12 months immediately following the acquisition of such Performance Shares.
- 2.3 The restriction in paragraph 2.2 shall not apply where the Investment Manager has:
- 2.3.1 received the prior written consent of the Company;
  - 2.3.2 accepted a general offer for the issued share capital of the Company made in accordance with the Code (a "**General Offer**");
  - 2.3.3 sold the Performance Shares to an offeror or potential offeror during an offer period (within the meaning of the Code);
  - 2.3.4 made any Disposal pursuant to an offer by the Company to purchase its own Ordinary Shares where such offer is made on identical terms to all holders of Ordinary Shares in the Company;
  - 2.3.5 made any Disposal through the implementation of any scheme of arrangement by the Company or other procedure to effect an amalgamation to give effect to a General Offer;
  - 2.3.6 sold or transferred the Performance Shares pursuant to an order made by a court with competent jurisdiction or where required by applicable law or regulation; or
  - 2.3.7 made a Disposal pursuant to any decision or ruling by an administrator, administrative receiver or liquidator appointed to the Investment Manager in connection with a winding up or liquidation of the Investment Manager.
- 2.4 Where practicable and permitted by law or regulation, the Investment Manager undertakes to the Company that it shall give the Company at least five Business Days' notice of any Disposal of the Performance Shares pursuant to paragraph 2.3.

### 3. **CONSEQUENCES OF TERMINATION**

- 3.1 On termination of the Investment Management Agreement:
- 3.1.1 the Investment Manager shall be paid the Management Fee up to the effective date of termination ("**Termination Date**");
  - 3.1.2 any accrued but unpaid Performance Fee in respect of any Performance Period completed prior to the Termination Date shall continue to be payable;
  - 3.1.3 any accrued but unpaid Deferred Performance Fee that is payable in respect of any Performance Period completed prior to the Termination Date shall continue to be payable; and
  - 3.1.4 if applicable, a termination fee determined in accordance with paragraph 3.2 below.
- 3.2 Upon termination of the Investment Management Agreement pursuant to:
- 3.2.1 paragraphs 10.2.14(B), 10.2.16 or 10.2.17 of Part VIII (*Additional Information on the Company*) of the Prospectus;
  - 3.2.2 paragraph 10.2.15(H) of Part VIII (*Additional Information on the Company*) of the Prospectus (solely as a result of death or disability of a Key Person); or

- 3.2.3 paragraph 10.2.15(K) of Part VIII (*Additional Information on the Company*) of the Prospectus (in circumstances where the Company is required by any relevant regulatory authority to terminate the Investment Manager's appointment for reasons other than malfeasance by the Investment Manager or an affiliate), the Investment Manager shall be entitled to receive a one-time termination fee equal to 2 per cent. of the Invested NAV as at the Termination Date.
- 3.3 Upon termination of the Investment Management Agreement pursuant to paragraph 10.2.15(H) of Part VIII (*Additional Information on the Company*) of the Prospectus for any reason other than the death or disability of a Key Person, the Investment Manager shall be entitled to receive a one-time termination fee equal to 1 per cent. of the Invested NAV as at the Termination Date.

#### 4. DEFINITIONS

- 4.1 For the purposes of the above disclosures, the following terms have the meanings set forth below:

"**Admission**" means 30 March 2017;

"**Closing NAV**" means the NAV attributable to the Ordinary Shares on the last day of the relevant Performance Period as reported by the Company;

"**Deferred Performance Fee**" has the meaning given in paragraph 1.3.1;

"**Excess Total Return**" means, in relation to each Performance Period, the amount by which the Total Return exceeds the Performance Hurdle;

"**Ex-Dividend Date**" means, with respect to a dividend declared by the Company, the date on which Shares trade ex-dividend;

"**First Performance Period**" means the period from Admission up to and including 31 December 2017;

"**Gross Proceeds**" means \$761,877,360.00;

"**Invested NAV**" means the Net Asset Value attributable to the Ordinary Shares less any amounts held by the Company in cash or near-cash equivalents;

"**Model**" has the meaning given in paragraph 1.5;

"**Month**" means a calendar month;

"**Net Capital Increase**" means "I" less "R" where:

I is the aggregate of, for each Ordinary Share issue during a Performance Period, the number of days between admission to listing of such issue until the end of the Performance Period divided by 365, such percentage multiplied by the net proceeds of such Ordinary Share issue, and

R is the aggregate of, for each Ordinary Share repurchase/redemption (including into treasury) during a Performance Period the number of days between settlement of such repurchase until the end of the Performance Period divided by 365, such percentage multiplied by the actual amount disbursed by the Company to effect such Ordinary Share repurchase;

"**Net Income**" means, in relation to a Performance Period, the "Return on ordinary activities after finance costs and taxation" (Total including revenue and capital account) as set out in the Company's audited annual financial statements attributable to the Ordinary Shares relating to such Performance Period;

"**Performance Conditions**" has the meaning given in paragraph 1.3;

"**Performance Fee**" has the meaning given in paragraph 1.1;

"**Performance Hurdle**" means, in relation to each Performance Period, "A" multiplied by "B", where:

"A" is 6 per cent.; and

"B" is the Starting NAV, less any dividends which are unpaid and are declared in respect of a prior Performance Period but, for accounting purposes such dividend has not yet reduced the Starting NAV, plus the Net Capital Increase during the Performance Period;

**"Performance Period"** means the First Performance Period and/or a Subsequent Performance Period, as the context so requires;

**"Starting NAV"** means the NAV attributable to the Ordinary Shares on the first day of the relevant Performance Period as reported by the Company;

**"Subsequent Performance Period"** means each 12-month period subsequent to the First Performance Period, commencing on the relevant 1 January and ending on the relevant 31 December (inclusive); and

**"Total Return"** means, in relation to a Performance Period, the Net Income for such Performance Period (which, for the avoidance of doubt, shall be before the deduction of any Performance Fee or Deferred Performance Fee payable in respect of any Performance Period. To the extent Net Income is a negative number, it shall be deemed as zero.