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If you were a Shareholder and have sold or otherwise transferred all your Shares, please send this document as soon as possible to the purchaser or transferee or to the stockbroker, bank or other agent through whom the sale or transfer was effected for onward transmission to the purchaser or transferee. However, neither this document nor any accompanying document(s) should be forwarded or transmitted to or in any jurisdiction outside the United Kingdom where to do so may violate any legal or regulatory requirement. If you are an existing holder of Shares and you have sold or transferred part only of your registered holding of Shares, please contact the stockbroker, bank or other agent through whom the sale or transfer was effected.

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CRYSTAL  AMBER

## **Crystal Amber Fund Limited**

*(Incorporated in Guernsey with Company number 47213 and authorised as an  
Authorised Closed-ended Collective Investment Scheme with the Guernsey Financial Services Commission)*

### **Recommended proposals for a Change of Investment Policy and new management and incentive arrangements for the Investment Manager**

**and**

### **Notice of Extraordinary General Meeting**

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#### **EXTRAORDINARY GENERAL MEETING**

Notice of an Extraordinary General Meeting to be held at the offices of Ocorian Administration (Guernsey) Limited at Trafalgar Court, Les Banques, St Peter Port, Guernsey on 7 March 2022 is set out at the end of this document. All Shareholders are encouraged to vote in favour of the Resolutions to be proposed at the Extraordinary General Meeting and if the Shares are not held directly, to arrange for their nominee to vote on their behalf.

In line with the Company's ongoing paperless strategy you will not have received a Form of Proxy with this document. Instead, Shareholders are asked to vote in one of the following ways:

- i. in the case of members holding share certificates, by utilising the shareholder portal as set out in note 4 to the notice of the Extraordinary General Meeting (the "**Notice**"); or
- ii. in the case of CREST members, by utilising the CREST electronic proxy appointment service in accordance with the procedures set out in note 5 to the Notice at the end of this document; or
- iii. by requesting a hard copy of the Form of Proxy from the Company's registrar, Link Group, by emailing [enquiries@linkgroup.co.uk](mailto:enquiries@linkgroup.co.uk), or by calling 0371 664 0300 (calls are charged at the standard geographic rate and will vary by provider. Calls outside the UK will be charged at the applicable international rate. Lines are open 9:00 a.m. – 5:30 p.m. Monday – Friday) and returning it to Link Group at the address shown on the Form of Proxy. Please note that delivery using this service can take up to five Business Days,

and in each case the appointment of proxy must be received by the Company's registrar by no later than 2 p.m. on 3 March 2022 or in the case of any adjournment by no later than 48 hours before the time of the adjourned meeting.

## **TABLE OF CONTENTS**

<b>PART 1</b>	<b>LETTER FROM THE BOARD</b>	<b>3</b>
<b>PART 2</b>	<b>PROPOSED NEW INVESTMENT POLICY</b>	<b>9</b>
<b>PART 3</b>	<b>CURRENT INVESTMENT MANAGEMENT AGREEMENT AND INCENTIVE ARRANGEMENTS</b>	<b>10</b>
<b>PART 4</b>	<b>SUMMARY OF THE TERMS OF THE NEW IMA</b>	<b>12</b>
<b>PART 5</b>	<b>DEFINITIONS</b>	<b>14</b>
	<b>NOTICE OF EXTRAORDINARY GENERAL MEETING</b>	<b>17</b>

## PART 1

### LETTER FROM THE BOARD

# Crystal Amber Fund Limited

*(Incorporated in Guernsey with Company number 47213 and authorised as an  
Authorised Closed-ended Collective Investment Scheme with the Guernsey Financial Services Commission)*

#### *Directors*

Christopher Waldron *(Non-executive Director and Chairman)*  
Jane Le Maitre *(Non-executive Director)*  
Fred Hervouet *(Non-executive Director)*

#### *Registered Office*

PO Box 286, Floor 2  
Trafalgar Court  
St Peter Port  
Guernsey  
GY1 4LY

15 February 2022

### **Recommended proposals for a Change of Investment Policy and new management and incentive arrangements for the Investment Manager**

**and**

### **Notice of Extraordinary General Meeting**

Dear Shareholders,

#### **1. Introduction and background to the Proposals**

On 22 December 2021, the Fund provided an update following the results of its 2021 AGM where the resolution that the Company continue as constituted received a majority of votes, but did not achieve the required 75 per cent. majority of votes cast and accordingly was not passed. By way of background, and as announced in 2013 on the basis it was never intended that the Fund would be evergreen, the Fund proposed that the 2021 AGM continuation vote should be subject to an extraordinary resolution, which would require a 75 per cent. majority.

As a result of the continuation vote not being passed, the Board believes that it is in the interests of Shareholders as a whole for the Fund to adopt a strategy of maximising capital returned to Shareholders by way of timely disposals, including trade sales of the Fund's strategic holdings, where appropriate. Such change of strategy is subject to Shareholder approval at the Extraordinary General Meeting.

The Fund has accumulated several strategic holdings: since 2013, the Fund has been a shareholder in Hurricane Energy plc (it currently has a 28.9 per cent. holding); since 2016, it has been a shareholder in Equals Group plc (it currently has a 13 per cent. holding); since 2017, it has been a shareholder in Allied Minds plc (it currently has an 18.2 per cent. holding); since 2018, it has been a shareholder in De La Rue plc (it currently has a 10 per cent. holding) and it has been a shareholder in Sutton Harbour plc for more than a decade (it currently has a 10.8 per cent. holding). Given the substantial progress achieved by the Fund with its activist strategy to date on these holdings, the Fund expects to have realised these investments by 31 December 2023. Within this timescale, the Fund also anticipates selling its holding in Board Intelligence plc, an unquoted company in which it has been a shareholder since 2018.

The Fund has a track record of returning cash to Shareholders via share buybacks and dividends: since 2013, when the requirement for the continuation vote to be proposed at the 2021 AGM was introduced, £60 million has been returned to Shareholders via such means. The Fund intends to return all net proceeds from its holdings in Hurricane Energy plc, Allied Minds plc, Equals Group plc, De La Rue plc, Sutton Harbour plc and Board Intelligence plc, after providing for ongoing operational costs as necessary. The Fund previously announced, based on the Investment

Manager's assessment of the status and timing of anticipated corporate transactions, that it is targeting additional shareholder returns of at least £40 million or 50 pence per Share before 30 June 2022. The payment of the 10p a share dividend to Shareholders on 9 February 2022, representing a gross return of £8.3 million, was the first shareholder return towards achieving that target. Whilst the Fund is confident that this is achievable, after consulting with several Shareholders, it is no longer considered to be in the interests of the Fund to impose a fixed deadline but will be keeping it as a target.

Subject to Shareholder approval of the change of strategy, the Fund will not make any new investments and will only make further opportunistic investments in existing holdings where, in the view of the Board and Investment Manager, such investment is considered necessary to protect the interests of Shareholders and/or provide the Investment Manager with additional influence to maximise value and facilitate and accelerate an exit. Any such investment will require the prior approval of the Board and will only be permitted where it is not expected to compromise the timescale for realisations.

### **GI Dynamics**

In 2014 the Fund began to accumulate a shareholding in GI Dynamics. GI Dynamics is the developer of the EndoBarrier, a minimally invasive therapy for the treatment of Type 2 diabetes and obesity. EndoBarrier is a temporary bypass sleeve that is endoscopically delivered to the duodenal intestine. It offers similar effects to the surgical gastric bypass, without the risks of a major surgical procedure.

During the year to June 2021, GI Dynamics delisted from the Australian stock exchange. Its board and CEO were replaced with new executives and directors with medical device experience. As part of a US\$10 million investment in preferred stock, the Fund's senior secured loan was converted, and warrants were cancelled. The Fund currently owns 81.3 per cent. of the fully diluted share capital of GI Dynamics, together with a \$4.9 million convertible loan note.

After delays due to the COVID-19 surge in India, the I-STEP application for a randomised clinical trial of the EndoBarrier (to be conducted in conjunction with Apollo Sugar Clinics) was reviewed by regulators in India in June 2021. The Fund is pleased to report that in December 2021, regulators approved the commencement of this trial.

The global pandemic has reaffirmed the importance of gaining control of the significant risk factors associated with Type 2 diabetes and obesity. More than ever, medical professionals and patients alike are seeking minimally invasive and effective therapies to help control and resolve these chronic conditions. GI Dynamics is preparing to meet this large unmet clinical need.

The Investment Manager believes that because of its intensive activism, the investment in GI Dynamics now has considerable strategic value. This was recently evidenced by two approaches from US trade parties that have expressed an interest in making a significant investment in GI Dynamics. The Investment Manager looks forward to continuing to work with the company to achieve its operational milestones and to further develop the pathway to maximise Shareholder value. In due course, the Fund will consult with investors about the longer-term plans for GI Dynamics in order to realise value for its Shareholders. Given the anticipated value accretive milestones, the Investment Manager believes it is appropriate that it gives GI Dynamics the time it requires to maximise Shareholder returns. Accordingly, it may not be possible or desirable to effect a realisation of the Fund's holding in GI Dynamics by 31 December 2023 as set out above, by contrast to realisations of the Fund's other strategic holdings.

### **Investment Manager – reducing remuneration and revised incentivisation arrangements**

The Board also believes that it is in the interests of Shareholders to incentivise the Investment Manager to maximise the realisation value of the investment portfolio in a timely manner. As announced today, the Company has agreed to make amendments to the Investment Management Agreement by way of entering into a new Investment Management Agreement (the “**New IMA**”), conditional on the passing of the Resolutions. A summary of the amendments to the Investment Management Agreement is set out in paragraph 3 of this Part 1.

## **Proposals**

This document therefore sets out details of, and seeks your approval of, the proposals relating to:

- the approval of resolutions 1 and 2 as set out in the Notice of Extraordinary General Meeting, which will be proposed as ordinary resolutions;
- the Future Strategy of the Company and associated adoption of the New Investment Policy; and
- a new Investment Management Agreement incorporating new management and performance fee arrangements, together with changes to the termination provisions to reflect the Future Strategy and New Investment Policy;

(together the “**Proposals**”), as further summarised in paragraph 2 below.

The Proposals are subject to Shareholder approval and if approved, are expected to result in the realisation of predominantly all of the Company’s assets (with the possible exception of GI Dynamics) by 31 December 2023 and the periodic return of capital to Shareholders. This document sets out in more detail the background to the Proposals and the reasons why the Board recommends that you vote in favour of the Resolutions to approve the Proposals.

Notice of the Extraordinary General Meeting to be held at the offices of Ocorian Administration (Guernsey) Limited at Trafalgar Court, Les Banques, St Peter Port, Guernsey at 2 p.m. on 7 March 2022 is set out at the end of this document.

## **2. Summary of the Proposals**

### **2.1 Commencement of the Future Strategy and return of capital to Shareholders**

Resolution 1 is being proposed to commence the realisation of predominantly all of the Company’s assets (with the possible exception of GI Dynamics) for the benefit of all its Shareholders, with such realisations and return of capital to Shareholders expected to be completed by 31 December 2023.

Resolution 1 also seeks to obtain Shareholder approval to (i) amend the Current Investment Policy to reflect a realisation strategy; and (ii) cease making any new investments except in very limited circumstances as detailed in Part 2 of this document. The proposed amendments to the Current Investment Policy are considered a material change, which requires the consent of Shareholders in accordance with the AIM Rules.

In seeking the realisation of predominantly all the Company’s investments by 31 December 2023 (with the possible exception of GI Dynamics), the Directors will aim to achieve a balance between maximising their net value and progressively returning cash to Shareholders. In so doing, the Board will take account of the continued costs of operating the Company. The Company’s admission to AIM and the capacity to trade in its Shares will be maintained for as long as the Directors believe it to be practicable and cost-effective within the requirements of the AIM Rules.

While it is intended that predominantly all of the Fund’s investments (with the possible exception of GI Dynamics) will have been realised by 31 December 2023, in the event that this is not achieved, the Directors will consider consulting Shareholders and/or make arrangements to seek Shareholder approval on the future strategy of the Fund, including any steps that might be necessary to maximise the opportunity to realise value from the remaining assets of the Company.

Part 2 of this document sets out the New Investment Policy in full.

### **2.2 Amendments to the Investment Management Agreement**

Resolution 2 is being proposed to put in place a new Investment Management Agreement incorporating new management and performance fee arrangements, together with changes to the termination provisions to reflect the future strategy of the Company. The Board believes that it is in the interests of Shareholders to incentivise the Investment Manager to

maximise the realisation value of the investment portfolio in a timely manner. A summary of the key changes to the Investment Management Agreement is set out in paragraph 3 of Part 1 and Part 4 of this document. Resolution 2 is conditional on the passing of Resolution 1.

### **3. Related party transaction - reduced remuneration and revised incentivisation arrangements for the Investment Manager to align with cash returned to shareholders**

Under the current Investment Management Agreement, the Investment Manager receives a management fee as set out in Part 3 of this document, which for the quarter ending 31 March 2022 amounts to £448,320. In addition, the Investment Manager is currently entitled to receive a performance fee of 20 per cent. of the excess of the NAV per Ordinary Share at the end of the relevant performance period over the higher of:

- the Basic Performance Hurdle;
- the NAV per Ordinary Share at the start of the relevant performance period (less any dividends or other distributions in respect of all outstanding Ordinary Shares declared (on a per share basis) since then; and
- the high-water mark (in each case on a per Ordinary Share basis) multiplied by the time weighted average of the number of Ordinary Shares in issue in the Performance Period.

At 30 June 2021, the Basic Performance Hurdle was 249.84 pence (as adjusted for all dividends paid during the performance period on their respective payment dates, compounded at the applicable annual rate) (2020: 230.03 pence), and the high-water mark (adjusted for dividends) was 241.62 pence.

The NAV per Ordinary Share before any accrual for the performance fee payable in respect of the year was 153.11 pence, excluding the issuance of charitable shares on 25 September 2020. Accordingly, no performance fee was earned during the year ended 30 June 2021 (2020: £Nil).

As at 31 December 2021, the Basic Performance Hurdle (as adjusted for the dividend paid on 4 August 2021, compounded at the applicable annual rate) was 259.15 pence.

During the life of the Fund to date, the day-to-day running of the investment portfolio including identifying and researching new investment opportunities, considering the most appropriate activism strategies and engaging with investee management has been conducted by the Investment Manager under the Investment Management Agreement. Under the proposed Future Strategy, the Fund will not be seeking to make new investments and will instead be seeking to maximise the value of the existing investment portfolio as it realises such investments. Accordingly, the Board and the Investment Manager have agreed to enter into the New IMA, subject to the adoption of the Future Strategy and Shareholder approval.

The principal terms of the proposed New IMA are as follows:

- From 1 April 2022, the management fee will be reduced to £106,666 per month until 30 June 2022, falling to £90,000 per month until 31 December 2022, falling to £70,000 per month until 30 June 2023, falling to £50,000 per month until 30 September 2023 and falling to £40,000 per month until 31 December 2023 (or if earlier, the date on which all the Fund's investments have been substantially realised) when the management fee will cease. For these purposes "substantially realised" means the date on which all of the Fund's investments (other than the Fund's investment in GI Dynamics) have been realised;
- The performance fee will be calculated by reference to the aggregate cash returned to Shareholders after 1 January 2022 and the Investment Manager will receive 20 per cent. of the aggregate return of cash paid to Shareholders after 1 January 2022 (including the interim dividend of 10 pence per Ordinary Share declared on 22 December 2021) in excess of a threshold of £216,000,000, being the Basic Performance Hurdle per share as at 31 December 2021 multiplied by the voting share capital. This threshold represents a premium of approximately 81 per cent. over the unaudited Net Asset Value at 31 December 2021 of 143.2 pence per share and a premium of approximately 127 per cent. over the market capitalisation of the Fund at that date, based on the closing mid-market share price on

31 December 2021 of 114 pence, and 83,365,000 voting rights attributable to the Ordinary Shares as at that date. Returns of cash to Shareholders are expected to include share redemptions, dividends, share buybacks and any other means of cash distributions to Shareholders effected after 1 January 2022;

- If the New IMA continues beyond 31 December 2023, the Manager may continue to be entitled to a performance fee on returns of cash to the extent earned in excess of the threshold of £216,000,000, and on the basis, described above;
- The Fund will have the following additional termination rights to reflect the adoption of the Future Strategy whereby the Fund will be able to terminate the New IMA with immediate effect within the period of six months following (i) the passing of a resolution of Shareholders for the winding up of the Company; (ii) 31 December 2023; and (iii) the date on which all of the Fund's investments (other than the Fund's investment in GI Dynamics) have been realised.

Set out in Part 3 of this document is a summary of the terms of the current investment management agreement and incentive arrangements for the Investment Manager.

Set out in Part 4 of this document is a summary of the terms of the New IMA.

Pursuant to the AIM Rules, the Manager is deemed to be a related party of the Company and the amendments to the Investment Management Agreement are therefore deemed to be a related party transaction. The Directors consider, having consulted with Allenby Capital Limited, the Company's Nominated Adviser, that the terms of the New IMA are fair and reasonable insofar as Shareholders are concerned.

#### **4. Future returns of cash to Shareholders and Dividend policy**

Following any material realisations of the Fund's investments, the Directors intend to return cash to Shareholders using tax-efficient means such as redeemable shares and/or tender offers. Should Shareholders approve the Proposals, the Directors intend to seek Shareholder approval to put mechanisms in place to enable such distributions to take place at the appropriate time.

The Board intends to return cash to Shareholders by way of capital distributions. Accordingly, the Board intends to suspend the declaration of dividends until further notice.

#### **5. Details of the Extraordinary General Meeting**

##### ***Location, Date and Time***

The Proposals are subject to Shareholder approval. Set out at the end of this document is the Notice of the Extraordinary General Meeting to be held at the offices of Ocorian Administration (Guernsey) Limited at Trafalgar Court, Les Banques, St Peter Port, Guernsey at 2 p.m. on 7 March 2022, where the following resolutions will be proposed:

##### ***Resolutions***

- ***Resolution 1*** is proposed as an ordinary resolution which will authorise the Directors to (i) pursue the Future Strategy, as set out in Part 1 of this document; (ii) commence the complete realisation of the Company's assets to maximise the value of its assets for the benefit of all its Shareholders, with such realisation and return of capital to Shareholders expected to be substantially completed (with the possible exception of GI Dynamics) by 31 December 2023; and (iii) to adopt the New Investment Policy, as set out at Part 2 of this document, in substitution for the Current Investment Policy.
- ***Resolution 2*** is proposed as an ordinary resolution to approve the New IMA. Resolution 2 is conditional on the passing of Resolution 1.

##### ***Voting***

The Resolutions will be conducted on a poll. An ordinary resolution will require more than 50 per cent. of the votes cast (whether in person or by proxy) to be in favour in order for it to be passed.

## **6. Action to be taken**

**YOU ARE ADVISED TO READ ALL OF THE INFORMATION CONTAINED IN THIS DOCUMENT BEFORE DECIDING ON THE COURSE OF ACTION YOU WILL TAKE IN RESPECT OF THE EXTRAORDINARY GENERAL MEETING.**

### ***Voting at the Extraordinary General Meeting/Form of Proxy***

All Shareholders are encouraged to vote in favour of the Resolutions to be proposed at the Extraordinary General Meeting and if the Shares not held directly, to arrange for their nominee to vote on their behalf. In line with the Company's ongoing paperless strategy you will not have received a Form of Proxy with this notice. Instead, Shareholders are asked to vote in one of the following ways:

- i. in the case of members holding share certificates, by utilising the shareholder portal as set out in note 4 of the Notice; or
- ii. in the case of CREST members, by utilising the CREST electronic proxy appointment service in accordance with the procedures set out in note 5 of the Notice ; or
- iii. by requesting a hard copy of the Form of Proxy from the Company's registrar, Link Group, by emailing enquiries@linkgroup.co.uk, or by calling 0371 664 0300 (calls are charged at the standard geographic rate and will vary by provider. Calls outside the UK will be charged at the applicable international rate. Lines are open 9:00 a.m. – 5:30 p.m. Monday – Friday) and returning it to Link Group at the address shown on the Form of Proxy. Please note that delivery using this service can take up to five Business Days,

and in each case the appointment of proxy must be received by the Company's registrar by no later than 2 p.m. on 3 March 2022 or in the case of any adjournment by no later than 48 hours before the time of the adjourned meeting.

## **7. Recommendation**

Based on discussions with Shareholders, the Board believes that the Proposals are in the best interests of the Company and its Shareholders as a whole.

Accordingly, the Board recommends that Shareholders vote in favour of the Resolutions to be proposed at the Extraordinary General Meeting, as they intend to do in respect of their own shareholdings which total, in aggregate, 51,200 Ordinary Shares, representing, 0.06% of the voting rights of the Company.

The Investment Manager, which holds 6,949,031 Ordinary Shares, representing 8.34 per cent. of the voting rights of the Company, has advised that it will vote in favour of Resolution 1 and 2.

Yours faithfully

**Christopher Waldron**  
*Chairman*



## **PART 2**

### **PROPOSED NEW INVESTMENT POLICY**

It is proposed that, if the Proposals are approved, the Fund's Investment Strategy (which includes the Current Investment Policy) will be deleted in its entirety and replaced with the New Investment Policy set out below.

*The Company will be managed with the intention of realising all remaining investments in a prudent manner consistent with the principles of good investment management and with a view to returning cash to Shareholders in an orderly manner, with such realisations (with the potential exception of GI Dynamics Inc) and returns of cash to Shareholders intended to be completed by 31 December 2023.*

*The Company will pursue the investment policy by effecting an orderly realisation of the investments of the Company in a manner that seeks to achieve a balance between maximising the value received from those investments and making timely returns of capital to Shareholders.*

*The Company will cease to make any new investments except where, in the opinion of the Investment Manager and with the approval of the Board, the investment is considered necessary by the Board to protect or enhance the value of any existing investments of the Company or to facilitate orderly disposals of assets held by the Company.*

*Any cash received by the Company as part of the realisation process prior to its distribution to Shareholders will be held by the Company, on behalf of the Shareholders, as cash on deposit and/or as cash equivalents.*

*At 31 December 2023, should any of the Company's investments remain unrealised, the Board will consider consulting Shareholders and/or make arrangements to seek Shareholder approval on the future strategy of the Company, including any steps that might be necessary to maximise the opportunity to realise value from the remaining assets of the Company.*

*Any material change to the New Investment Policy would require Shareholder approval before being implemented in accordance with the AIM Rules.*

## PART 3

### CURRENT INVESTMENT MANAGEMENT AGREEMENT AND INCENTIVE ARRANGEMENTS

The Company appointed the Manager to provide the Company with investment management services pursuant to the 2008 Management Agreement.

The Company and the Manager entered into subsequent amendment agreements dated 21 August 2013, 27 January 2015 and 12 June 2018 respectively, amending the 2008 Management Agreement. The 2008 Management Agreement, as amended pursuant to the Amendment Agreements shall be referred to as the "Original Management Agreement". Under the Original Management Agreement, the Investment Manager receives a management fee at the annual rate of 2 per cent. applied to the Market Capitalisation of the Company as at 30 June 2013 (£73.5 million) (the "**Base Amount**"). To the extent that an amount equal to the lower of the Company's NAV and market capitalization at the relevant time of calculation, exceeds the Base Amount (the "**Excess Amount**"), the applicable fee rate on the Excess Amount will be 1.5 per cent.

The management fee is payable quarterly in advance and calculated by reference to the NAV or Market Capitalisation of the Company at the relevant quarterly accounting date.

The Investment Manager is entitled to a performance fee in certain circumstances. This fee is calculated by reference to the increase in NAV per Ordinary Share over the course of each performance period.

The performance periods are periods of 12 months ending on 30 June (being in line with the Company's financial year ending 30 June).

Payment of the performance fee is subject to:

- the achievement of a performance hurdle condition: the NAV per Ordinary Share at the end of the relevant performance period must exceed an amount equal to the original placing price (being 100 pence), increased at a rate of:
  - (i) 7 per cent. per annum on an annual compounding basis in respect of that part of the performance period which falls from (and including) 17 June 2008 up to (but not including) 21 August 2013;
  - (ii) 8 per cent. per annum on an annual compounding basis in respect of that part of the performance period which falls from (and including) 21 August 2013 up to (but not including) 27 January 2015; and
  - (iii) 10 per cent. per annum on an annual compounding basis in respect of that part of the performance period which falls from (and including) 27 January 2015 up to the end of the relevant performance period (with all dividends and other distributions paid in respect of all outstanding Ordinary Shares (on a per share basis) during any performance period being deducted on their respective payment dates (and after compounding the distribution amount per share at the relevant annual rate or rates for the period from and including the payment date to the end of the performance period) ("the **Basic Performance Hurdle**").

Such Basic Performance Hurdle at the end of a performance period is compounded at the relevant annual rate to calculate the initial per share hurdle level for the next performance period, which will subsequently be adjusted for any dividends or other distributions paid in respect of all outstanding Ordinary Shares during that performance period; and

- the achievement of a "high-water mark": the NAV per Ordinary Share at the end of the relevant performance period must be higher than the highest previously reported NAV per Ordinary Share at the end of a performance period in relation to which a performance fee, if any, was last earned (less any dividends or other distributions in respect of all outstanding Ordinary Shares declared (on a per share basis) since the end of the performance period in relation to which a performance fee was last earned).

If the Basic Performance Hurdle is met, and the high-water mark exceeded, the performance fee is an amount equal to 20 per cent. of the excess of the NAV per Ordinary Share at the end of the relevant performance period over the higher of:

- the Basic Performance Hurdle;
- the NAV per Ordinary Share at the start of the relevant performance period (less any dividends or other distributions in respect of all outstanding Ordinary Shares declared (on a per share basis) since then; and
- the relevant high-water mark (in each case on a per Ordinary Share basis) multiplied by the time weighted average of the number of Ordinary Shares in issue in the performance period.

The excess is multiplied by the time weighted average of the number of Ordinary Shares in issue in the performance period, which shall only include such number of Ordinary Shares as reduced by the number of any Ordinary Shares redeemed or repurchased by the Company. If the Company issues new shares during a relevant performance period, the performance fee in respect of that period shall be adjusted in such manner to be fair and reasonable to take account of the new issue of shares. If a time-weighted number of shares calculation is applied to a new pot of shares issued, then the denominator for the calculation shall be the number of days from the date of such issuance until the end of the relevant performance period, inclusive. During 2019, the Company agreed that performance fees accruing in respect of such year be calculated as if no charitable shares had been issued during that year.

Depending on whether the Ordinary Shares are trading at a discount or a premium to the Company's NAV per Ordinary Share when the performance fee becomes payable, the performance fee will be either payable in cash (subject to the restrictions set out below) or satisfied by the sale of Ordinary Shares out of treasury or by the issue of new fully paid Ordinary Shares (the number of which shall be calculated as set out below):

- If the Ordinary Shares are trading at a discount to the NAV per Ordinary Share when the performance fee becomes payable, the performance fee shall be payable in cash. Within a period of one calendar month after receipt of such cash payment, the Investment Manager shall be required to purchase Ordinary Shares in the market of a value equal to such cash payment.
- If Ordinary Shares are trading at, or at a premium to, the NAV per Ordinary Share when the performance fee becomes payable, the performance fee shall be satisfied by the sale of Ordinary Shares out of treasury or by the issue of new fully paid Ordinary Shares. The number of Ordinary shares that shall become payable shall be a number equal to the performance fee payable divided by the closing mid-market price per Ordinary Share on the date on which such performance fee became payable.

## PART 4

### SUMMARY OF THE TERMS OF THE NEW IMA

The Company and the Manager have agreed, subject to Shareholder approval at the EGM, to amend and restate the Original Management Agreement on the terms of the New IMA to reflect the proposed change of strategy of the Company and new investment policy of the Company.

Under the terms of the New IMA, the Manager shall be entitled to receive from the Company in respect of its services provided under the new IMA a monthly management fee equal to:

- (a) £149,440 per calendar month with effect from 1 January 2022 and up to and including 31 March 2022;
- (b) £106,666 per calendar month with effect from 1 April 2022 and up to and including 30 June 2022;
- (c) £90,000 per calendar month with effect from 1 July 2022 and up to and including 31 December 2022;
- (d) £70,000 per calendar month with effect from 1 January 2023 and up to and including 30 June 2023;
- (e) £50,000 per calendar month with effect from 1 July 2023 and up to and including 30 September 2023; and
- (f) £40,000 per calendar month with effect from 1 October 2023 and up to and including 31 December 2023 or, if earlier, the date on which all of the Company's investments have been substantially realized. For these purposes "substantially realised" means the date on which all of the Fund's investments (other than GI Dynamics) have been realised.

The Management Fee shall be payable monthly in advance.

If the new IMA is terminated otherwise than at the end of any monthly period, the Manager shall be entitled in respect of the part of the relevant period during which the new IMA shall have been in force ("the partial period") only to the amount which bears the same proportion to the fee which would have been payable hereunder at the end of that month if the new IMA had not been terminated as the number of days in the partial period bears to the number of days in the relevant month.

Under the terms of the New IMA, the performance fee will be calculated by reference to the aggregate cash returned to Shareholders after 1 January 2022 and the Investment Manager will receive 20 per cent. of the aggregate return of cash paid to Shareholders after 1 January 2022 (including the interim dividend of 10 pence per Ordinary Share declared on 22 December 2021) in excess of a threshold of £216,000,000. This threshold represents a premium of approximately 81 per cent. over the unaudited Net Asset Value at 31 December 2021 of 143.2 pence per share and a premium of approximately 127 per cent. over the market capitalisation of the Fund at that date, based on the closing mid-market share price on 31 December 2021 of 114 pence, and 83,365,000 voting rights attributable to the Ordinary Shares as at that date. Returns of cash to Shareholders are expected to include share redemptions, dividends, share buybacks and any other means of cash distributions to Shareholders effected after 1 January 2022;

To the extent that any performance fee is payable in respect of returns of cash after 31 December 2023, the applicable performance fee rate will remain at 20 per cent. of the return of cash paid to Shareholders after 31 December 2023; and

In the event that the Company makes a distribution in specie to ordinary shareholders of the Company after 1 January 2022 (including a distribution of assets or shares or other non-cash distribution) (a "Non-Cash Distribution") the Company shall provide the Manager with a proposal regarding how such Non-Cash Distribution should be valued for the purposes of calculating whether a performance fee is payable (a "Valuation Proposal"). A Valuation Proposal should be provided to the Manager within 10 Business Days of a Non-Cash Distribution being made. In the

event that the Manager does not accept the Valuation Proposal, the matter shall be referred to the Auditors or an independent firm of chartered accountants as shall be agreed between the Company and the Manager, whose determination shall be final and binding upon the parties hereto.

The Fund will have the following additional termination rights to reflect the adoption of the Future Strategy whereby the Fund will be able to terminate the New IMA with immediate effect within the period of six months following (i) the passing of a resolution of Shareholders for the winding up of the Company; (ii) 31 December 2023; and (iii) the date on which all of the Fund's investments (other than the Fund's investment in GI Dynamics) have been realised.

## PART 5

### DEFINITIONS

<b>“2021 AGM”</b>	the annual general meeting of the Company held on 22 November 2021
<b>“AIM”</b>	the AIM Market of the London Stock Exchange
<b>“Articles”</b>	the articles of association of the Company
<b>“AIM Rules”</b>	the AIM Rules for Companies, as published by the London Stock Exchange from time to time
<b>“Basic Performance Hurdle”</b>	has the meaning set out in Part 2 of this document
<b>“Board” or “Directors”</b>	the board of directors of the Company, including any duly constituted committee thereof
<b>“Business Day”</b>	any day (excluding Saturdays, Sundays and public holidays) on which banks are open for normal banking business in the City of London and Guernsey
<b>“Company”, “Crystal Amber” or the “Fund”</b>	Crystal Amber Fund Limited
<b>“Company’s Website”</b>	<a href="http://www.crystalamber.com">www.crystalamber.com</a>
<b>“CREST”</b>	the facilities and procedures for the time being of the relevant system of which Euroclear has been approved as operator pursuant to the CREST Regulations
<b>“CREST manual”</b>	the manual, as amended from time to time, produced by Euroclear describing the CREST system and supplied by Euroclear to users and participants thereof
<b>“CREST Participant”</b>	a person who is, in relation to CREST, a system participant (as defined in the CREST Regulations)
<b>“CREST Proxy Instruction”</b>	the instruction whereby CREST Members send a CREST message appointing a proxy for the Extraordinary General Meeting and instructing the proxy how to vote and containing the information set out in the CREST manual
<b>“CREST Regulations”</b>	the Uncertificated Securities (Guernsey) Regulations 2009 (SI 2009 No. 48), as amended from time to time
<b>“CREST Sponsor”</b>	a CREST Participant admitted to CREST as a CREST sponsor
<b>“CREST Sponsored Member”</b>	a CREST Member admitted to CREST as a sponsored member
<b>“Current Investment Policy”</b>	the investment policy of the Company as at the date of this document, details of which are set out on the Company’s Website <a href="http://www.crystalamber.com/about/investmentstrategy">www.crystalamber.com/about/investmentstrategy</a>
<b>“Extraordinary General Meeting” or “EGM”</b>	the extraordinary general meeting of the Company convened for 2 p.m. on 7 March 2022, or any adjournment thereof, notice of which is set out at the end of this document
<b>“FCA”</b>	the UK Financial Conduct Authority or its successor from time to time

<b>“Form of Proxy”</b>	the form of proxy which may be requested from the Registrar for use in connection with the Extraordinary General Meeting
<b>“FSMA”</b>	the Financial Services and Markets Act 2000, as amended, including any regulations made pursuant thereto
<b>“GI Dynamics”</b>	GI Dynamics Inc, a company incorporated in Delaware, which is an unconsolidated subsidiary of the Company due to the percentage of voting share capital in which the Company is interested
<b>“Future Strategy”</b>	the proposed future strategy of the Company to realise predominantly all of the Company’s assets and return of capital to Shareholders as described in this document
<b>“Investment Manager”</b>	Crystal Amber Asset Management (Guernsey) Limited, a company whose principal shareholders are Richard Bernstein and Jonathan Marsh
<b>“Investment Management Agreement”</b>	the agreement between the Company and the Investment Manager dated 16 June 2008 (as subsequently amended on 21 August 2013, 27 January 2015 and 12 June 2018)
<b>“NAV” or “Net Asset Value”</b>	the value of the assets of the Company less its liabilities determined in accordance with the accounting principles adopted by the Company from time to time
<b>“Net Asset Value per Share” or “NAV” per Share</b>	the Net Asset Value divided by the number of Ordinary Shares then in issue (excluding treasury shares)
<b>“New IMA”</b>	the conditional new investment management agreement dated 14 February 2022 between the Company and the Investment Manager, further details of which are set out in paragraph 3 of Part 1 and Part 4 of this document
<b>“New Investment Policy”</b>	the proposed new investment policy of the Company as set out in Part 2 of this document
<b>“Ordinary Shares” or “Shares”</b>	ordinary shares in the Company of £0.01 each
<b>“Participant ID”</b>	the identification code or membership number used in CREST to identify a particular CREST Member or other CREST Participant
<b>“Proposals”</b>	has the meaning given to it in paragraph 3 of Part 1 of this document
<b>“Register”</b>	the register of Shareholders
<b>“Registrar”</b>	Link Market Services (Guernsey) Limited
<b>“Regulatory Information Service” or “RIS”</b>	a regulatory information service approved by the FCA and on the list of regulatory information services maintained by the FCA
<b>“Resolutions”</b>	the resolutions numbered 1 and 2 to be proposed at the EGM as detailed in paragraph 5 of Part 1 of this document and in the Notice of EGM
<b>“RIS Announcement”</b>	an announcement to a Regulatory Information Service
<b>“Shareholders”</b>	holders of Shares

<b>“Takeover Code”</b>	the City Code on Takeovers and Mergers
<b>“uncertificated form”</b>	recorded on the register as being held in uncertificated form in CREST and title to which, by virtue of the CREST Regulations, may be transferred by means of CREST
<b>“United Kingdom”</b>	the United Kingdom of Great Britain and Northern Ireland
<b>“United States” or “U.S.”</b>	the United States of America, its territories and possessions, any State of the United States and the District of Columbia



## NOTICE OF EXTRAORDINARY GENERAL MEETING

# Crystal Amber Fund Limited

*(Incorporated in Guernsey with Company number 47213)*

Notice is hereby given that an extraordinary general meeting of Crystal Amber Fund Limited (the "**Company**") will be held at the offices of Ocorian Administration (Guernsey) Limited at Trafalgar Court, Les Banques, St Peter Port, Guernsey at 2 p.m. on 7 March 2022 to consider and, if thought fit, approve the following resolutions which will be proposed as ordinary resolutions:

### ORDINARY RESOLUTIONS

1. THAT, the Company shall commence the complete realisation of the Company's assets to maximise the value of its assets for the benefit of all Shareholders, with such realisation and return of capital to Shareholders expected to be substantially completed (with the possible exception of GI Dynamics) by 31 December 2023 and shall adopt the New Investment Policy, as set out at Part 2 of the circular to the Company's shareholders dated 15 February 2022 (a copy of which is produced to the meeting and signed for identification purposes by the chairman of the meeting) ( the "**Circular**"), in substitution for the Current Investment Policy.
2. THAT, conditional on the passing of resolution 1, the New IMA (as defined in the Circular and a copy of which is produced to the meeting and signed for identification purposes by the chairman of the meeting) be approved.

### **Ocorian Administration (Guernsey) Limited**

*Company Secretary*

15 February 2022

2nd Floor  
Trafalgar Court  
Les Banques  
St Peter Port  
Guernsey

### Notes to the Notice of the Extraordinary General Meeting:

1. A member is entitled to attend and vote at the Meeting provided that all calls due from him in respect of his shares have been paid. A member is also entitled to appoint one or more proxies to attend, to speak and vote instead of him provided that each proxy is appointed to exercise the rights attached to a different share or shares held by him. The proxy need not be a member of the Company.
2. In line with the Company's ongoing paperless strategy you will not have received a Form of Proxy with this notice. Instead, shareholders are asked to vote in one of the following ways:
  - i. in the case of members holding share certificates, by utilising the shareholder portal as set out in note 4; or
  - ii. in the case of CREST members, by utilising the CREST electronic proxy appointment service in accordance with the procedures set out in note 5 below; or
  - iii. by requesting a hard copy of the Form of Proxy from the Company's registrar, Link Group, by emailing [enquiries@linkgroup.co.uk](mailto:enquiries@linkgroup.co.uk), or by calling 0371 664 0300 (calls are charged at the standard geographic rate and will vary by provider. Calls outside the UK will be charged at the applicable international rate. Lines are open 9:00 a.m. - 5:30 p.m. Monday - Friday) and returning it to Link Group at the address shown on the form of proxy. Please note that delivery using this service can take up to five business days,

and in each case the appointment of proxy must be received by the Company's registrar by no later than 2 p.m. on 3 March 2022 or in the case of any adjournment by no later than 48 hours before the time of the adjourned meeting.

3. The quorum for the Meeting is at least two members present in person or by proxy. An ordinary resolution means a resolution passed by a simple majority of those present at the meeting in person or by proxy and voting on the resolution.
4. Shareholders holding share certificates can submit their proxy vote electronically by accessing the shareholder portal at [www.signalshares.com](http://www.signalshares.com), logging in and selecting the 'Vote Online Now' link. Shareholders will require their username and password in order to log in and vote. If shareholders have forgotten their username or password, they can request a reminder via the shareholder portal. If shareholders have not previously registered to use the portal they will require their investor code ('IVC') which can be found on their share certificate.
5. To appoint a proxy or to give or amend an instruction to a previously appointed proxy via the CREST system, the CREST message must be received by the Issuer's agent RA10 by 2 p.m. on 3 March 2022. For this purpose, the time of receipt will be taken to be the time (as determined by the timestamp applied to the message by the CREST Applications Host) from which the Issuer's agent is able to retrieve the message. After this time any change of instructions to a proxy appointed through CREST should be communicated to the proxy by other means. CREST Personal Members or other CREST sponsored members, and those CREST Members who have appointed voting service provider(s) should contact their CREST sponsor or voting service provider(s) for assistance with appointing proxies via CREST. For further information on CREST procedures, limitations and system timings please refer to the CREST Manual. We may treat as invalid a proxy appointment sent by CREST in the circumstances set out in Regulation 35(5) (a) of the Uncertificated Securities Regulations 2001. In any case your proxy form must be received by the Company's Registrars no later than 2 p.m. on 3 March 2022.
6. In accordance with Regulation 41 of the Uncertificated Securities (Guernsey) Regulations 2009 and Article 17.5 of the Company's Articles of Incorporation, only those members entered in the Register of Members of the Company at the close of business on 3 March 2022 shall be entitled to attend or vote at the Meeting in respect of the number of shares registered in their name at that time. Changes to entries on the Register of Members after that time shall be disregarded in determining the rights of any person to attend or vote at the Meeting.

7. The Register of Directors' Interests kept by the Company shall be available for inspection at the Registered Office of the Company by any member between the hours of 10 a.m. and 12 noon on any business day for a period of 14 days before and ending 3 days after the Meeting. The Register of Directors' Interests shall be produced at the commencement of the Meeting and shall remain open and accessible during the continuance of the Meeting to any person attending such meeting.
8. The Board of Directors is mindful of the impact of the COVID-19 pandemic on the Meeting. Whilst the travel restrictions to Guernsey have been broadly lifted, shareholders are advised to consult the States of Guernsey's latest travel guidance at <https://covid19.gov.gg/> before arranging to attend the Meeting in person. The Directors recommend that shareholders vote FOR all resolutions.

