

**INSTRUMENT OF INCORPORATION**

**OF**

**ANDURAND UCITS ICAV**

**AN UMBRELLA TYPE IRISH COLLECTIVE ASSET-MANAGEMENT VEHICLE WITH VARIABLE  
CAPITAL AND SEGREGATED LIABILITY BETWEEN FUNDS**

**(as amended by special resolutions dated 18 January, 2017 and 13 August 2021 and as  
amended on 6 January 2022)**

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**1.00 DEFINITIONS**

1.01 In this Instrument the words standing in the first column of the table next hereinafter contained, shall bear the meanings set opposite to them respectively in the second column thereof if not inconsistent with the subject or context:

| <u>Words</u>               | <u>Meanings</u>  |
|----------------------------|--|
| “Accounting Date”          | 31 December in each year, or such other date as the Directors, in consultation with the Manager, may from time to time decide.   |
| “Accounting Period”        | means, in respect of each Fund, the period determined by the Directors, in consultation with the Manager, ending on an Accounting Date and commencing in the case of the first such period, on the date of registration of the ICAV and in subsequent such periods, on the day following expiry of the last Accounting Period. |
| “Act”                      | the Irish Collective Asset-Management Vehicles Act, 2015 and every modification, consolidation, amendment or re-enactment of the same.   |
| “Administration Agreement” | any agreement between the ICAV, the Manager and the Administrator relating to the appointment and duties of the Administrator as may be amended from time to time subject to the requirements of the Central Bank.   |
| “Administrator”            | a person or company appointed by the ICAV and/or the Manager to carry out the day to day administration of the ICAV.   |
| “AIMA”                     | means the Alternative Investment Management Association.   |
| “Auditors”                 | the Auditors for the time being of the ICAV.   |
| “Bank Regulations”         | the regulations made by the Central Bank under Part 8 of the Central Bank (Supervision and Enforcement) Act, 2013.   |

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| “Base Currency”          | the currency of account of a Fund as specified in the relevant Supplement relating to that Fund.   |
| “Business Day”           | in relation to a Fund such day or days as may be determined by the Directors, in consultation with the Manager, and specified in the relevant Supplement for that Fund.  |
| “Central Bank”           | the Central Bank of Ireland or any successor regulatory authority with responsibility for the authorisation and supervision of the ICAV.   |
| “Class”                  | a particular division of Participating Shares or Management Shares of the ICAV.  |
| “Clear Days”             | in relation to a period of notice, the period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.   |
| “Depositary Agreement”   | any agreement made between the ICAV, the Manager and the Depositary relating to the appointment and duties of the Depositary as amended from time to time subject to the requirements of the Central Bank.   |
| “Depositary”             | any corporation appointed and for the time being acting as depositary of all of the assets of the ICAV.  |
| “Dealing Day”            | in relation to a Fund such day or days as shall be determined by the Directors from time to time, in consultation with the Manager, and specified in the relevant Supplement for that Fund provided always that there shall be at least one Dealing Day every fortnight. |
| “Dealing Deadline”       | in relation to a Fund, such time on any Dealing Day as shall be specified in the relevant Supplement for that Fund.  |
| “Directors”              | the Directors of the ICAV or any duly authorised committee or delegate thereof.  |
| “Distribution Agreement” | any agreement made between the ICAV, the Manager and any Distributor relating to the appointment and duties of the Distributor.  |
| “Distributor”            | one or more persons, firms or corporations appointed for the time being providing distribution services in relation to the   |

ICAV in accordance with the requirements of the Central Bank.

“Duties and Charges”

all stamp and other duties, taxes, governmental charges, valuation fees, property management fees, agents fees, brokerage fees, bank charges, transfer fees, registration fees and other charges whether in respect of the constitution or increase of the assets or the creation, exchange, sale purchase or transfer of shares or the purchase or sale or proposed purchase or sale of investments or otherwise which may have become or will become payable in respect of or prior to or upon the occasion of any transaction, dealing or valuation, but not including commission payable on the issue of Participating Shares.

“Euro or €”

the lawful currency of the participating member states of the European Union which have adopted the single currency in accordance with the EC Treaty of Rome dated 25th March 1957 (as amended by the Maastricht Treaty dated 7th February 1992).

“Fund”

a sub-fund of the ICAV representing the designation by the Directors of a particular Class or Classes of Participating Shares as a sub-fund the proceeds of issue of which are pooled separately and invested in accordance with the investment objective and policies applicable to such sub-fund and which is established by the Directors from time to time with the prior approval of the Central Bank.

“In writing or written”

written, printed, lithographed, photographed, telexed, telefaxed or represented by any other substitute for writing including any means of electronic communication which may be processed to produce a legible text or partly one and partly another.

“Initial Price”

the initial price applicable to a Participating Share as specified in the relevant Supplement for each Fund.

“Initial Series”

a Series of Participating Shares within a performance fee paying Class issued in connection with the initial offering of such Class of Participating Shares.

“Initial Subscription”

means the minimum initial subscription for Participating Shares as may be specified in the relevant Supplement for each Fund.

|                                   |   |
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| “Investment Manager”              | one or more persons, firms or corporations appointed in accordance with the requirements of the Central Bank and for the time being providing investment management or advisory services in relation to the management of the ICAV's Investments.   |
| “Investment Management Agreement” | any investment management agreement made between the ICAV, the Manager and the Investment Manager relating to the appointment and duties of the Investment Manager as may be amended from time to time subject to the requirements of the Central Bank.   |
| “Investment or Investments”       | any of the assets or property including without limitation transferable securities, liquid financial assets, derivative instruments, money market instruments, units of collective investment schemes and deposits which may be acquired or held or disposed of by the ICAV and financial derivative instruments and techniques and instruments relating to transferable securities and money market instruments employed by the ICAV for efficient portfolio management. |
| “IOSCO”                           | means the International Organisation of Securities Commissions.   |
| “Ireland”                         | the Republic of Ireland.  |
| “Management Share”                | a management share in the capital of the ICAV as more particularly described in Clause 5 of this Instrument.  |
| “Management Fee”                  | such fee as may be described in the relevant Supplement.  |
| “Manager”                         | means one or more persons, firms or corporations appointed in accordance with the requirements of the Central Bank and for the time being acting as management company to the ICAV.   |
| “Management Agreement”            | the management agreement made between the ICAV and the Manager relating to the appointment and duties of the Manager as may be amended from time to time subject to the requirements of the Central Bank.   |
| “Member State”                    | a member state of the European Union.   |
| “Member”                          | a Shareholder or a person who is registered as the holder of  |

Management Shares the prescribed particulars of which have been recorded in the Register.

|                             |  |
|-----------------------------|--|
| “Minimum Holding”           | the minimum number or value of Participating Shares, if any, which must be held by Shareholders in any Fund or Class of Participating Shares as specified in the Prospectus or relevant Supplement.  |
| “Minimum Subscription”      | the minimum subscription for Participating Shares in any Fund or Class, if any, as set out in the relevant Supplement.   |
| “Minimum Transaction Size”  | means the minimum value of subsequent subscriptions, redemptions, conversions or transfers of Participating Shares of any Fund or Class, if any, as specified in the relevant Supplement.  |
| “Month”                     | calendar month.  |
| “Net Asset Value”           | the net asset value of a Fund or attributable to a Class of Participating Shares or where relevant a Series within a Class of Participating Shares (as appropriate) calculated pursuant to Clause 15.02 hereof.  |
| “Net Asset Value per Share” | the net asset value of a Participating Share calculated pursuant to Clause 15.03 hereof.   |
| “OECD Member Country”       | each of Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, South Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom and the United States or other such other members as may be admitted to the OECD from time to time. |
| “Office”                    | the registered office of the ICAV.   |
| “Official Seal”             | a seal kept by the ICAV in accordance with the provisions of Section 34 of the Act.  |
| “Ordinary Resolution”       | a resolution of the Members of the ICAV or of the Shareholders of a particular Fund or Class(es) of Participating Shares in general meeting passed by a simple majority of the votes cast in person or by proxy at a general meeting of the ICAV, a Fund or Class(es) of Participating   |



Shares as the case may be.

|                             |   |
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| “Organisational Expenses”   | the organisational expenses incurred by the ICAV in the formation and establishment of the ICAV or a Fund or Class and the raising of its share capital including without limitation the fees of the professional advisers of the ICAV, commissions payable to brokers and others for underwriting placing, selling or guaranteeing or procuring the underwriting, placing, selling of or guaranteeing the subscription for any shares or securities of the ICAV and any costs or expenses (whether incurred directly by the ICAV or not) incurred in connection therewith or with any subsequent application for a listing or quotation of any of the shares in the ICAV on any Recognised Exchange or any application for registration, authorisation or recognition of the ICAV in any country and any other expenses which the Directors consider to be in the nature of such expenses. |
| “OTC”                       | over-the-counter.   |
| “Paid Up”                   | the amount paid up as capital on any share including any amount credited as paid up.  |
| “Participating Share”       | a redeemable participating share in the capital of the ICAV as more particularly described in Clause 5 of this Instrument and designated in one or more Funds, issued in accordance with this Instrument and having the rights provided for under this Instrument.  |
| “Pounds”, “Sterling” or “£” | the lawful currency for the time being of the United Kingdom.   |
| “Prospectus”                | the prospectus of the ICAV and any Supplements and addenda thereto issued by the ICAV in accordance with the requirements of the UCITS Regulations.   |
| “Recognised Exchange”       | means a stock exchange or market (including derivatives markets) which meets with the regulatory criteria (regulated, operates regularly, be recognised and open to the public) and which are listed in the Prospectus.   |
| “Redemption Price”          | the price at which Participating Shares of a Fund or Class shall be redeemed pursuant to this Instrument calculated in accordance with Clause 12.00.  |
| “Register”                  | the register maintained by or on behalf of the ICAV in which  |

are listed the names of the Members of the ICAV.

|                      |  |
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| “Regulations”        | means collectively the UCITS Regulations, the Central Bank (Supervision and Enforcement) Act 2013 (Section 48 (1)) (Undertakings for Collective Investment in Transferable Securities) Regulations 2015, as amended, consolidated or substituted from time to time and any notices or guidance issued thereunder.  |
| “Seal”               | the common seal of the ICAV.   |
| “Secretary”          | any person, firm or corporation appointed by the Directors to perform any of the duties of the secretary of the ICAV.  |
| “Securities Act”     | the United States Securities Act of 1933, as amended, substituted or enacted from time to time.  |
| “Securities System”  | a generally recognised book-entry or other settlement system or clearing system or house or agency which may or may not also act as a securities depository the use of which is customary for securities settlement activities in the jurisdiction(s) in which Investments of the ICAV are held by or on behalf of the Depositary and through which the Depositary or its duly authorised delegate may transfer, settle, clear, deposit or maintain Investments owned or held on behalf of the ICAV whether in certificated or uncertificated form and shall include any services provided by any network service provider or carriers or settlement banks used by a Securities System but shall not include the participants in the system. |
| “Series”             | a series of Participating Shares issued in respect of any performance fee-paying Class of one or more Funds of the ICAV, as determined by the Directors from time to time.   |
| “Shareholder”        | a person who is registered as the holder of one or more Participating Shares the prescribed particulars of which have been recorded in the Register.   |
| “Signed”             | a signature, mark or representation of a signature, affixed by mechanical, electronic or other means.  |
| “Special Resolution” | a special resolution of the Members of the ICAV or the Shareholders of a particular Fund or Class(es) of Participating Shares in general meeting passed by not less than seventy-five per cent of the votes cast in person or by   |

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|  | proxy at a general meeting of the ICAV, a Fund or Class(es) of Participating Shares as the case may be.   |
| “Standing Redemption and Payment Instructions” | instructions specifying a named and numbered account at any one bank to which the proceeds of the redemption or sale of any Participating Shares are to be paid.  |
| “Sub-Investment Manager”                       | one or more persons, firms or corporations appointed in accordance with the requirements of the Central Bank and for the time being providing sub-investment management or advisory services in relation to the management of the ICAV's Investments. |
| “Subscription Price”                           | the price at which Participating Shares of a Fund or Class shall be issued pursuant to Clause 10 hereof.  |
| “Supplement”                                   | a Supplement to the Prospectus outlining information in respect of a Fund and/or Class.   |
| “UCITS”  | an Undertaking for Collective Investment in Transferable Securities established pursuant to EC Council Directive 2009/65/EEC of 13 July, 2009 as amended, consolidated or substituted from time to time.  |
| “UCITS Regulations”                            | means the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 2011 (S.I. No. 352 of 2011) as amended and as may be further amended, consolidated or substituted from time to time.                  |
| “UK”   | the United Kingdom of Great Britain and Northern Ireland.   |
| “United States”                                | the United States of America (including the States and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction.   |
| “US Dollar”, “USD” or “US\$”                   | means United States Dollars, the lawful currency for the time being of the United States of America.  |
| “US Person”                                    | a US Person as defined in the Prospectus or otherwise determined by the Directors.  |

“Valuation Day” means in relation to a Fund such day or days as shall be specified in the relevant Supplement for that Fund and determined by the Directors from time to time.

“Valuation Point” the time by reference to which the Net Asset Value shall be calculated on or with respect to each Valuation Day as determined by the Directors and specified in the relevant Supplement for each Fund.

1.02 In this Instrument, unless there be something in the subject or context inconsistent with such construction:-

- (a) words importing the singular number shall include the plural number and vice versa;
- (b) words importing the masculine gender only shall include the feminine gender;
- (c) words importing persons only shall include companies or associations or bodies of persons, whether corporate or not;
- (d) the word "may" shall be construed as permissive and the word "shall" shall be construed as imperative;
- (e) all references to a time of day or night shall be to Irish time;
- (f) references to enactments and to sections of enactments shall include reference to any modifications or re-enactments thereof for the time being in force; and
- (g) headings and captions in this Instrument are inserted for convenience of reference only and shall not affect the construction or interpretation hereof.

1.03 Where for the purposes of this Instrument or for any other purpose any amount in one currency is required to be converted into another currency the Directors may effect such conversion using such rates as are quoted by such banks as the Directors may deem appropriate at the relevant time except where otherwise in this Instrument specifically provided.

## **2.00 OBJECTIVE**

The sole object of the ICAV is the collective investment of its funds in property and giving members the benefit of the results of the management of its funds. With effect from 1 February 2022, the sole object of the ICAV is investment in either or both transferable securities and other liquid financial assets referred to in Regulation 68 of the UCITS Regulations of capital raised from the public and which operates on the principle of risk spreading.

### **3.00 PRELIMINARY**

- 3.01 The business of the ICAV shall be commenced as soon after the registration of the ICAV under the Act and authorisation of the ICAV under the UCITS Regulations as the Directors think fit.
- 3.02 The Organisational Expenses payable by the ICAV may in the accounts of the ICAV be carried forward and amortised in such manner and over such period as the Directors may determine and the Directors may at any time and from time to time determine to lengthen or shorten any such period. Any Organisational Expenses attributable to one or more Funds shall be allocated between the relevant Funds pro rata and shall be subject to such adjustment following the establishment of new Funds as the Directors may determine.
- 3.03 The ICAV and/or each Fund and, where expenses or liabilities are attributable specifically to a Class, Class shall also bear the following expenses and liabilities or, where appropriate, its pro rata share thereof subject to adjustment to take account of expenses and/or liabilities attributable to one or more Classes:-
- (a) all fees and expenses, to include reasonable out-of-pocket expenses, payable to or incurred by the ICAV, the Administrator, the Depositary, the Manager, any Investment Manager, any Sub-Investment Manager, adviser, any paying agent or Distributor or other service provider appointed by or on behalf of the ICAV and their respective delegates;
  - (b) Duties and Charges, all taxes or government duties which may be payable on the assets, income or expenses of the ICAV and bank charges and commissions incurred by or on behalf of the ICAV in the course of its business;
  - (c) all fees and expenses of the Directors, to include reasonable out-of-pocket expenses;
  - (d) the remuneration and expenses of any paying agent or representative or correspondent bank appointed in any jurisdiction in compliance with the law or other requirements of that jurisdiction;
  - (e) the remuneration, commissions and expenses incurred or payable in the registration, marketing, promotion and distribution of Participating Shares including without limitation commissions payable to any person in consideration of his subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any Participating Shares in the ICAV and the costs and expenses of preparation and distribution of all marketing material and advertisements;
  - (f) all fees and expenses connected with the preparation, publication and supply of information to the Shareholders and the public including, without limitation, the cost of preparing, translating, printing, updating and distributing the Prospectus and any

Supplements and any periodic updates thereof, the key investor information documents, marketing literature, the annual audited report, the half-yearly reports and any other periodic reports and the calculation, publication and circulation of the Net Asset Value per Participating Share, certificates, confirmations of ownership and of any notices given to Shareholders in whatever manner;

- (g) all fees and expenses incurred in connection with the convening and holding of Members' meetings;
- (h) all fees and expenses incurred or payable in registering and maintaining a Fund or Class registered with any and all governmental and/or regulatory and/or rating agencies, clearance and/or settlement systems and/or any exchanges in any various countries and jurisdictions including, but not limited to, all filing and translation expenses;
- (i) all fees and expenses incurred or payable in listing and in maintaining or complying with the requirements for the listing of the Participating Shares on the Irish Stock Exchange (or other exchange to which Participating Shares may be admitted);
- (j) legal and other professional fees and expenses incurred by the ICAV or by or on behalf of its agents or delegates in any actions taken or proceedings instituted or defended to enforce, protect, safeguard, defend or recover the rights or property of the ICAV;
- (k) any amount payable under indemnity provisions contained in any agreement with any officer, employee, agent, delegate, advisor or other service provider of the ICAV;
- (l) all sums payable in respect of any policy of insurance taken out by the ICAV including, without limitation, any policy in respect of directors' and officers' liability insurance cover;
- (m) all expenses involved in obtaining and maintaining a credit rating for the ICAV from any rating agency or for any Funds or Classes or Participating Shares or any asset of any Funds;
- (n) all fees and expenses of the Auditors, tax, legal and other professional advisers and company secretarial fees and any valuer or other supplier of services to the ICAV;
- (o) the costs of any amalgamation or restructuring of the ICAV or any Fund;
- (p) the costs of winding up the ICAV or terminating any Fund;
- (q) all other liabilities and contingent liabilities of the ICAV of whatsoever kind and all fees and expenses incurred in connection with the ICAV's operation administration and management (including, without limitation, all company secretarial expenses and all

Central Bank filings and statutory fees) or as may be deemed incidental or conducive to objectives, powers or policy of the ICAV;

in each case all of the above payable inclusive of any taxes or charges including applicable value added tax (if any).

3.04 All fees and expenses of the ICAV or all fees and expenses attributable to a Fund, Class of Participating Shares or Series will be charged against current income or against realised and unrealised capital gains of the ICAV or charged against current income and/or against realised and unrealised capital gains attributable to a Fund, Class of Participating Shares or Series (whichever is applicable) and/or if the Directors so determine, against the capital or assets of the ICAV or against the capital or assets attributable to a Fund, Class of Participating Shares or Series (whichever is applicable) in such manner and over such period as the Directors may from time to time decide in accordance with the requirements of the Central Bank.

**4.00 DEPOSITARY, MANAGER, INVESTMENT MANAGER, ADMINISTRATOR AND DISTRIBUTOR**

4.01

- (a) Subject to the prior approval of the Central Bank the ICAV shall appoint a Depositary to be responsible for the safe-keeping of all the Investments of the ICAV and to perform such other duties upon such terms and conditions including the right to remuneration payable by the ICAV as the Directors may from time to time (with the agreement of the said Depositary) determine.
- (b) The Depositary shall be a company approved for the purpose by the Central Bank and the terms of any Depositary Agreement shall be in accordance with the Regulations and the requirements of the Central Bank.

4.02

- (a) The ICAV may appoint:
  - (i) one or more persons, firms or corporations to act as Investment Manager and/or Sub-Investment Manager for the purpose of managing the investment and reinvestment of the Investments of the ICAV attributable to one or more Funds on a discretionary basis and upon such terms and conditions including the right to remuneration payable by the ICAV as the Directors may from time to time (with the agreement of the said Investment Manager and/or Sub-Investment Manager as applicable) determine. The maximum fee that may be charged by the Investment Manager or Sub-Investment Manager as applicable (as detailed within the Prospectus) shall not be increased without approval of the Shareholders of the relevant Fund of the ICAV on the basis of

a simple majority of votes cast in a general meeting or with the prior written approval of all Shareholders of the relevant Fund in accordance with this Instrument. The ICAV and/or the Manager shall provide Shareholders with reasonable notice in the event of an increase of the maximum fee payable to the Investment Manager or Sub-Investment Manager as applicable; and

(ii) a person, firm or corporation to act as Administrator of the ICAV for the purpose of administering the affairs of the ICAV and, in each case, to perform such other duties upon such terms and conditions including the right to remuneration payable by the ICAV as the Directors may from time to time (with the agreement of the said Investment Manager or Administrator) determine.

(b) The terms of any Investment Management Agreement or and the appointment of an Investment Manager shall be in accordance with the requirements of the Regulations and the Central Bank. The appointment of any Sub-Investment Manager shall be in accordance with the Central Bank requirements.

(c) The terms of any Administration Agreement and the appointment of an Administrator shall be in accordance with the requirements of the Regulations and the Central Bank.

#### 4.03

(a) The ICAV may appoint one or more persons, firms or corporations to act as distributor(s) for the purpose of marketing and distributing the Participating Shares of the ICAV and to perform such other duties upon such terms and conditions including the right to remuneration payable by the ICAV as the Directors may from time to time (with the agreement of the said distributors) determine.

(b) The appointment of a Distributor shall be in accordance with the requirements of the Regulations and the Central Bank.

#### 4.04

(a) The ICAV may appoint:

(i) one or more persons, firms or corporations to act as Manager for the purpose of managing the ICAV and upon such terms and conditions including the right to remuneration payable by the ICAV as the Directors may from time to time (with the agreement of the said Manager) determine. The maximum fee that may be charged by the Manager (as detailed within the Prospectus) shall not be increased without approval of the Shareholders of the relevant Fund of the ICAV on the basis of a simple majority of votes cast in a general meeting or with the prior written approval of all Shareholders of the relevant Fund in accordance with this Instrument. The ICAV shall provide Shareholders with



reasonable notice in the event of an increase of the maximum fee payable to the Manager;

(b) The terms of any Management Agreement and the appointment of the Manager shall be in accordance with the requirements of the UCITS Regulations and the Central Bank.

4.05 The terms of appointment of any Depositary may authorise such Depositary to appoint (with powers of sub-delegation) sub-depositary, nominees, agents or delegates at the expense of the ICAV or otherwise as determined by the Depositary and the ICAV.

4.06 In the event of the Depositary desiring to retire or the ICAV desiring to remove the Depositary from office, the Directors shall use their reasonable endeavours to find a corporation willing to act as depositary and subject to the prior approval of the Central Bank and Clause 4.01(b) the Directors shall appoint such corporation to be Depositary in place of the former Depositary. The Depositary may not retire or be removed from office until the Directors shall have found a corporation willing to act as Depositary and such corporation shall have been appointed Depositary in place of the former Depositary.

4.07 If within a period of three months or such other period as agreed under the terms of the Depositary Agreement from the date on which (a) the Depositary notifies the ICAV of its desire to retire in accordance with the terms of the Depositary Agreement and has not withdrawn notice of its intention to so retire; (b) the appointment of the Depositary is terminated by the ICAV in accordance with the terms of the Depositary Agreement; or (c) the Depositary ceases to be qualified under Clause 4.01(b), no new Depositary has been appointed, the Directors shall instruct the Secretary to forthwith convene an extraordinary general meeting of the ICAV at which there shall be proposed an Ordinary Resolution to wind up the ICAV in accordance with the provisions of Clause 37.00. Notwithstanding anything set out above, the Depositary's appointment shall only terminate on revocation of the ICAV's authorisation by the Central Bank.

4.08 In the event of the Manager desiring to retire or the ICAV desiring to remove the Manager from office and the Directors determining to appoint a Manager in lieu of the Manager retiring or being replaced, the Directors of the ICAV shall use their reasonable endeavours to find a person, firm or corporation willing to act as Manager and subject to the prior approval of the Central Bank the Directors shall appoint such person, firm or corporation to be Manager in place of the former Manager. Any such replacement of the Manager will be carried out in such a manner that ensures the protection of Shareholders. The appointment of a new Manager shall be subject to the prior approval of the Central Bank.

The Manager may not retire or be removed from office until (i) the Directors shall have found a corporation willing to act as Manager and such corporation shall have been appointed Manager in place of the former Manager or (ii) the Directors shall have determined to seek authorisation from the Central Bank as a self-managed investment company pursuant to the UCITS Regulations and such authorisation has been obtained or (iii) the Central Bank has

revoked the authorisation of the ICAV.

## **5.00 SHARE CAPITAL**

- 5.01 The ICAV may issue shares subject to and in accordance with this Instrument, the Prospectus, the Bank Regulations, the requirements of the Central Bank and the Act.
- 5.02 The share capital of the ICAV shall be equal to the value for the time being of the issued share capital of the ICAV. The actual value of the paid up share capital of the ICAV shall at all times be equal to the value of the assets of the ICAV after deduction of its liabilities. The share capital of the ICAV is to be divided into a specified number of shares without assigning any nominal value to them.
- 5.03 Shares of the ICAV shall be divided into ordinary participating shares of no nominal value ("**Participating Shares**") and ordinary management shares of no nominal value ("**Management Shares**"). The ICAV may issue shares as fully paid up, or subscribed and partly paid up, in accordance with this Instrument, the requirements of the Central Bank, the Bank Regulations and the Act. The liability of Members in respect of payment on their shares shall be limited to the amount, if any, unpaid, on the shares respectively held by them. As more specifically described in Clause 12 of this Instrument, Participating Shares shall at the request of any of the Shareholders, be purchased by the ICAV directly or indirectly out of the Investments of the ICAV unless and to the extent as may be provided for in this Instrument, approved by the Central Bank and subject to such requirements as may be imposed by the Central Bank under the Act or any other enactment.
- 5.04 Subject and without prejudice to Clause 6.02 hereof, Shareholders shall have the right to participate in or receive profits or income arising from the acquisition, holding, management or disposal of Investments of the relevant Fund, to vote at any general meeting of the ICAV or at any meeting of the relevant Fund or Class of Participating Shares in respect of which such Participating Shares have been issued and such other rights as may be provided in respect of Participating Shares of a particular Fund or Class in each case as more particularly described in the Prospectus and/or relevant Supplement subject always to the requirements of the Central Bank, the Bank Regulations and the Act. Holders of Management Shares shall have the right to receive an amount not to exceed the consideration paid for such Management Shares and to vote at any general meeting of the ICAV in accordance with the provisions of this Instrument.
- 5.05 The Directors are hereby generally and unconditionally authorised to exercise all the powers of the ICAV to issue shares in the ICAV on such terms and in such manner as they may think fit.
- 5.06 The Directors may, subject to this Instrument, the Prospectus, Bank Regulations and the Act, allot, issue, grant options over or otherwise dispose of Participating Shares in the ICAV to such persons on such terms and conditions and at such times and in such manner as they

may think fit. The Participating Shares shall be divided into such Classes or Funds as the Directors may from time to time determine. On or before the allotment of any Participating Shares, the Directors shall determine the Class or Fund to which such Participating Shares are designated. All monies payable in respect of a Participating Share (including without limitation, the subscription and redemption monies and dividends in respect thereof) shall be paid in the currency in which the Participating Share is designated or in such other currency or currencies as the Directors may determine either generally or in relation to a particular Class or Fund. In order to facilitate the equitable application to the holding of each Shareholder of any performance fee payable in respect of a Class of Participating Shares, or for any other purpose as determined by the Directors in accordance with the requirements of the Central Bank, the Directors may create Series of Participating Shares within that Class. An initial series of Participating Shares for each relevant Class of Participating Shares will be issued at such time as the Directors may determine and thereafter at such times as the Directors determine and disclose in the Prospectus or relevant Supplement. Each subsequent Series of Participating Shares may, at the discretion of the Directors, be re-designated and converted into the initial series at such time and in such circumstances as the Directors may determine and disclose as outlined in the Prospectus or relevant Supplement.

- 5.07 The Directors may delegate to any duly authorised Director or officer of the ICAV, or to any duly authorised person, firm or corporation, including the Administrator (directly, or may authorise the Manager to do so), the duties of accepting the subscription for, receiving payment for, and delivering, new Participating Shares.
- 5.08 The Directors may in their absolute discretion refuse to accept any application for Participating Shares in the ICAV or to accept any application in whole or in part.
- 5.09 On any issue of Participating Shares, the ICAV may pay any brokerage fees or commissions.
- 5.10 No notice of any trust, express or implied shall be entered on the Register and no person shall be recognised by the ICAV as holding any shares on trust and the ICAV shall not be bound by or recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any shares or (except only as this Instrument otherwise provides or as by law required) any other right in respect of any share, except an absolute right of title thereto in the registered holder.
- 5.11 The ICAV may, by Ordinary Resolution, alter its share capital by consolidating, redesignating and/or dividing its share capital into shares of larger amount than its existing shares, subdividing its shares into shares of smaller amount than that fixed by this Instrument, or by cancelling any shares which, at the date of such 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.

## **6.00 CONSTITUTION, RIGHTS, ASSETS AND LIABILITIES OF THE ICAV**

- 6.01 The ICAV is an umbrella type Irish collective asset-management vehicle comprising separate

Funds, which may comprise one or more Classes of Participating Shares and with segregated liability between Funds. The assets of each Fund shall belong exclusively to the relevant Fund and shall not be used to discharge directly or indirectly the liabilities or claims against other Funds and shall not be available for such purpose. No Shareholder shall have any interest in the assets of any Fund. Subject to the Act, any liability incurred on behalf of or attributable to any Fund shall be discharged solely out of the assets of that Fund. The Directors may from time to time, with the prior approval of the Central Bank and/or upon notice to the Central Bank, and in accordance with the requirements of the Central Bank, designate additional Funds and/or Classes respectively and issue Participating Shares in such Funds or Classes.

- 6.02 Subject to the requirements of the Central Bank, the Directors may in their absolute discretion differentiate between any Class of shares of the ICAV including without limitation as to currency of denomination, hedging strategies if any applied to the currency of a particular Class, dividend policy, voting rights, return of capital, the level of fees and expenses to be charged, subscription or redemption procedures or the Minimum Subscription, Minimum Transaction Size and Minimum Holding applicable (if any), the fees payable in respect thereof, use of techniques and instruments for efficient portfolio management or to provide protection against exchange risks and shares of any such Class of the ICAV may have preferred, deferred or other special rights, privileges or restrictions attached thereto.
- 6.03 The rights attaching to any Class of shares of the ICAV may, whether or not the ICAV is being wound up, be varied or abrogated with the consent in writing of the holders of three-fourths of the issued shares of that Class of the ICAV, or with the sanction of a Special Resolution passed at a separate general meeting of the Members of that Class of the ICAV. To every such separate general meeting the provisions of this Instrument relating to general meetings shall apply provided that the necessary quorum at any such meeting (other than an adjourned meeting) shall be two persons holding or representing by proxy at least one third of the issued shares of the Class of the ICAV in question and, at an adjourned meeting, one Member of the Class of the ICAV in question or his proxy. Any Member of the Class of the ICAV in question present in person or by proxy at a general meeting of a Class of the ICAV may demand a poll. The Directors may treat all or some Classes of the ICAV as forming one Class of the ICAV and organise a meeting accordingly if they consider that such Classes of the ICAV would be affected in the same way by the proposals under consideration.
- 6.04 The rights conferred upon the holders of the shares of any Class of the ICAV issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that Class of the ICAV, be deemed to be varied by the creation or issue of further shares ranking *pari passu* therewith or by the liquidation of the ICAV or of any Fund and distribution of its assets to its Members in accordance with their rights or the vesting of assets in trustees for its Members in specie.
- 6.05 Shareholders are entitled to convert Participating Shares in one Class into Participating Shares of another Class in the same Fund or any other Fund in accordance with the provisions of Clause 14.00 or as hereinafter provided.

6.06 The assets and liabilities of the ICAV shall be allocated to each Fund in the following manner:

- (a) for each Fund, the ICAV shall keep separate books and records in which all transactions relating to the relevant Fund shall be recorded and to which the proceeds from the issue of Participating Shares in each Fund and the assets and liabilities and income and expenditure attributable to each Fund shall be applied subject to the provisions of this Clause;
- (b) any asset derived from another asset of a Fund shall be applied in the records of the relevant Fund as the asset from which it was derived and on each valuation of an asset, the increase or diminution in value thereof shall be applied to the relevant Fund;
- (c) where the ICAV incurs a liability which relates to any asset of a particular Fund or to any action taken in connection with an asset of a particular Fund, such liability shall be allocated to that Fund;
- (d) in circumstances in which an asset or liability is not clearly attributable to a particular Fund or Funds, the Directors shall have the discretion to determine the basis upon which assets and liabilities shall be allocated between Funds and from time to time subject to the approval of the Depositary to vary such allocations save where the asset or liability is allocated between all Funds pro-rata to their Net Asset Value at the time of allocation;
- (e) where hedging strategies are used in relation to a Fund or Class of Participating Shares, the financial instruments used to implement such strategies shall be deemed to be assets or liabilities (as the case may be) of the relevant Fund as a whole but the gains/losses on and the costs of the relevant financial instruments will accrue solely to the relevant Class;

Provided always that the liabilities of or attributable to a Fund shall be discharged solely out of the assets of that Fund and the assets of or attributable to a Fund shall not be applied in satisfaction of any liability incurred on behalf of or attributable to any other Fund.

6.07 The Investments of the ICAV shall belong exclusively to the ICAV and no Member has any ownership or other interest in the Investments of the ICAV.

## **7.00 SHARE CERTIFICATES AND CONFIRMATIONS OF OWNERSHIP**

7.01 A Member in the ICAV shall have his title to shares evidenced by having his name, address, details of shareholding and such other details as required pursuant to the Act and by the ICAV entered in the Register.

7.02 To be entered on the Register, Shareholders (applicants) must have applied for and acquired Participating Shares in the ICAV to the value of not less than the Minimum Subscription

amount.

- 7.03 Share Certificates shall not be issued. A Member whose name appears in the Register shall be issued with a written confirmation of entry in the Register of the number of shares held by him including without limitation fractions of shares.
- 7.04 The ICAV shall not be bound to register more than four persons as the joint holders of any share or shares.
- 7.05 Where two or more persons are registered as the holders of any shares they shall be deemed to hold the same as joint holders, subject to the following:-
- (a) the joint holders of any shares shall be liable, severally, as well as jointly, in respect of all payments which ought to be made in respect of such shares;
  - (b) any one of such joint holders of shares may give effectual receipts for any dividend, bonus or return of capital payable to such joint holders;
  - (c) only the first-named of the joint holders of a share shall be entitled to delivery of the confirmation of entry on the Register relating to such share or to receive notices from the ICAV to attend general meetings of the ICAV or the relevant Fund or Class as the case may be. Any confirmation of entry on the Register delivered to the first-named of joint holders shall be effective delivery to all, and any notice given to the first-named of joint holders shall be deemed notice given to all the joint holders;
  - (d) the vote of the first-named of joint holders who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders; and
  - (e) for the purpose of the provisions of this Instrument, the first-named shall be determined by the order in which the names of the joint holders stand in the Register.
- 7.06 The Register may be kept on magnetic tape or in accordance with some other mechanical or electrical system provided legible evidence can be produced therefrom to satisfy the requirements of applicable law and of this Instrument.

## **8.00 DEALING DAYS**

- 8.01
- (a) All allotments and all issues of Participating Shares in any Fund or Class other than the initial allotment and issue of Participating Shares, subject as provided hereinafter with respect to payment for Participating Shares, shall be effected or made on a Dealing Day for the relevant Fund or Class;
  - (b) All redemptions of Participating Shares in any Fund or Class shall be effected or

made on a Dealing Day for the relevant Fund or Class;

provided that in the event of any change in a Dealing Day reasonable notice thereof shall be given by the Directors to Shareholders in the relevant Fund or Class.

## **9.00 ALLOTMENT OF SHARES**

9.01 Subject as hereinafter provided, the ICAV may on any Dealing Day on receipt by it or its delegate from an applicant for Participating Shares in a Fund or Class by such time as may from time to time be specified by the Directors of:-

- (a) an application for Participating Shares in the relevant Fund or Class in such form as the Directors may from time to time determine;
- (b) such declarations as to the applicant's status, identity, residence and otherwise as the Directors may from time to time require; and
- (c) payment for Participating Shares in such manner and within such usual time limits as the ICAV from time to time may specify;

allot and issue Participating Shares in that Fund or Class at the Subscription Price for each such Participating Share PROVIDED THAT the Directors may, in their discretion, accept an application for processing on a Dealing Day notwithstanding that such application may have been received after the time specified from time to time by the Directors for the receipt of applications for such Dealing Day so long as such application is received prior to the Valuation Point for such Dealing Day. The time for receipt of applications for Participating Shares will be set out in the Prospectus or the relevant Supplement. Any applications received after the time specified from time to time by the Directors but before the time at which the Net Asset Value with respect to a Dealing Day is struck may, at the sole discretion of the Directors, be accepted for the relevant Dealing Day.

9.02 Without prejudice to the provisions of Clause 9.06 hereof, the allotment of Participating Shares shall (unless the Directors otherwise agree) be made on terms that (unless settlement has already been effected) the applicant shall effect settlement within such period and in such currency or currencies as the Directors or their delegate may determine to be appropriate to receive subscriptions and otherwise in the manner determined by the Directors as disclosed in the Prospectus and in the event of late settlement the applicant may be charged interest at a rate to be determined by the Directors and/or may be required to compensate the ICAV or its delegate for the amount of any loss arising as a result (as conclusively determined by the Directors) provided always that if the Directors receive payment for Participating Shares in a currency other than the Base Currency the Directors may convert or arrange for the conversion of such monies received into the Base Currency and shall be entitled to deduct therefrom all expenses incurred in such conversion. The Directors may, at their discretion and in accordance with Clause 10.02 hereof, allot Participating Shares for consideration other than cash or may sell, dispose of or otherwise convert such non-cash consideration into cash

and apply such non-cash consideration (net of expenses incurred in the conversion) for the purchase of Participating Shares.

- 9.03 Subject to Clause 9.06 of this Instrument, the Directors shall not be bound but shall be entitled to await the arrival of cleared funds in the Base Currency in settlement before proceeding to issue the Participating Shares.
- 9.04 The ICAV may (at the option of the Directors) satisfy any application for the issue of Participating Shares by procuring the transfer to the applicant of fully paid Participating Shares. In such case, references in this Instrument to allotting and issuing Participating Shares shall, where appropriate, be taken as references to procuring the transfer of Participating Shares.
- 9.05 No allotment shall be made under Clause 9.01 in respect of an application which would result in the applicant subscribing less than the Minimum Subscription (in the case of initial subscriptions into the relevant Fund or Class) or any Minimum Transaction Size (in the case of subsequent subscriptions into the relevant Fund or Class) or holding less than any Minimum Holding provided that the Directors may, in their discretion, waive or reduce the Minimum Subscription, Minimum Transaction Size or Minimum Holding with respect to any Shareholder or applicant for Participating Shares.
- 9.06 Allotment of Participating Shares may take place provisionally notwithstanding that cleared funds or the original papers specified in sub-paragraph (a) and (b) of Clause 9.01 hereof have not been received by the ICAV or its authorised agent PROVIDED THAT if such funds and papers have not been received within such period as the Directors may determine, the Directors may cancel any allotment made and make any necessary alteration in the relevant Register and such Participating Shares shall be deemed never to have been issued. The ICAV may charge the applicant or redeem or sell all or part of his holding of Participating Shares and use the proceeds thereof to satisfy and make good any loss, cost, expense or fees suffered by the ICAV as a result of non-receipt of such funds or papers within such time limits as may be specified by the Directors.
- 9.07 The Directors may decline to accept any application for the issue of Participating Shares without assigning any reason therefor and may cease to offer Participating Shares in the ICAV for allotment or subscription for a definite period or otherwise.
- 9.08 The Directors reserve the right from time to time to resolve to close any Class or Classes of Participating Shares to new subscriptions, either for a specified period or until they otherwise determine. Shareholders of the relevant Class will be notified of any such closure. During any such period, Participating Shares of that Class will not be available for subscription.
- 9.09 The Directors shall be entitled to issue fractions of Participating Shares where the subscription monies received by the ICAV are insufficient to purchase an integral number of Participating Shares, provided, however, that fractional Participating Shares shall not carry any voting rights and where applicable the Net Asset Value of a fractional Participating Share



of any Fund or Class shall be adjusted by the ratio which such fractional Participating Share bears to an integral Participating Share of that Fund or Class at the time of issue and any dividend payable on such fractional Participating Shares shall be adjusted in like manner. Any balance of subscription moneys representing less than 0.01 of a Participating Share will be retained by the ICAV in order to defray administration costs.

#### **10.00 TERMS OF SUBSCRIPTION**

10.00 The time and terms upon which and the Subscription Price per Participating Share at which the initial offer or placing of Participating Shares shall be made shall be determined by the Directors.

10.01

(a) Any subsequent allotment or placing of a Participating Share on any Dealing Day shall be made at a Subscription Price per Participating Share ascertained by:-

(i) determining the Net Asset Value per Participating Share as at the Valuation Point for the relevant Dealing Day in accordance with Clause 15.00 of this Instrument;

(ii) adding thereto a provision for Duties and Charges, if the Directors so determine;

(iii) in the event of subscription applications exceeding redemption requests for the relevant Fund on any Dealing Day and if the Directors so determine, adding thereto such provision representing an anti-dilution levy to provide for market spreads, dealing costs and preserve the value of the underlying assets of the relevant Fund as the Directors may determine; and

(iv) rounding the resulting total to the nearest cent as the Directors may determine and as set out in the Prospectus.

(b) A sales charge not exceeding five per cent (5%) of the Net Asset Value per Participating Share may be added to the Subscription Price for the absolute use and benefit of the ICAV or as the ICAV may direct either upon the initial issue of Participating Shares or on a contingent deferred basis and the Directors may at their discretion waive either wholly or partially, such sales charge or differentiate between Shareholders or applicants for Participating Shares as to the amount of such sales charge, if any, within the permitted limit.

10.02 The Directors may on any Dealing Day allot Participating Shares in any Fund or Class on terms that settlement shall be made by the vesting in the ICAV of assets of the type in which the subscription monies for the relevant Participating Shares may be invested in accordance with the investment objective policy and restrictions of the relevant Fund and otherwise upon such terms as the Directors may think fit provided that:

- (i) no Participating Shares shall be issued until the Investments have been vested or arrangements are made to vest the Investments with the Depositary or its sub-depositary to the Depositary's satisfaction;
- (ii) any such exchange shall be effected on terms that the number of Participating Shares to be issued shall be the number (including, at the Director's discretion, fractions of Participating Shares) which would have been issued at the Subscription Price for a cash amount equal to the value of the Investments as calculated in accordance with Clause 16.00 including such sum as the Directors may consider represents an appropriate provision for Duties and Charges arising in connection with the vesting of the Investments;
- (iii) the Investments to be transferred to the ICAV shall be valued by applying the rules relating to valuation of Investments contained in Clause 16.00;
- (iv) there may be paid to the incoming Shareholder out of the Investments of the relevant Fund a sum in cash equal to the value at the current price of any fraction of a Participating Share excluded from the calculation aforesaid; and
- (v) the Depositary shall be satisfied that the terms of such exchange shall not be such as are likely to result in any prejudice to the existing Members.

10.03 No Participating Shares shall be allotted on a particular Dealing Day if on that Dealing Day the determination of the Net Asset Value of the relevant Fund or attributable to a Class is temporarily suspended pursuant to Clause 15.04 of this Instrument.

10.04 Where subscription monies will not purchase an exact number of Participating Shares a fraction of a Participating Share may be issued.

10.05 Participating Shares shall be issued in registered form.

10.06 The ICAV shall only launch Classes of Participating Shares in a Fund at a fixed price after the initial offer period of those Classes where the ICAV has confirmed to the Central Bank that existing Shareholders in the relevant Fund are not prejudiced.

## **11.00 QUALIFIED HOLDERS AND COMPULSORY REDEMPTION**

11.01 The Directors may impose such restrictions as they may think necessary, and as may be further provided for in the Prospectus, for the purpose of ensuring that no Participating Shares in the ICAV are acquired or held directly or beneficially by:

- (i) any person in breach of the law or requirements of any country or governmental authority by virtue of which such person is not qualified to hold shares including without limitation any exchange control regulations;

- (ii) a US Person other than pursuant to an exemption available under the Securities Act;
- (iii) any person, whose holding would cause or be likely to cause the ICAV to be required to register as an "investment company" under the United States Investment Company Act of 1940 or to register any class of its securities under the Securities Act or similar statute;
- (iv) any person or persons in circumstances (whether directly or indirectly affecting such person or persons and whether taken alone or in conjunction with any other person or persons connected or not, or any other circumstances appearing to the Directors to be relevant) which in the opinion of the Directors might result in the ICAV or the Shareholders as a whole or any Fund or Class incurring any liability to taxation or suffering legal, fiscal, pecuniary, regulatory or material administrative disadvantage which the ICAV or the Shareholders as a whole or any Fund or Class might not otherwise have incurred or suffered;
- (v) any person who does not supply any information or declarations required by the Directors within seven days of a request to do so by the Directors; or
- (vi) any person who holds less than the Minimum Holding;

and the Directors (or any duly appointed delegate on behalf of the ICAV) may reject in their discretion any application for Participating Shares by or any transfer of Participating Shares to any persons who are so excluded from purchasing or holding Participating Shares and pursuant to Clause 11.04 and Clause 11.09 below at any time redeem or require the transfer of Participating Shares held by Shareholders who are so excluded from purchasing or holding Participating Shares.

11.02 The Directors shall be entitled to assume without enquiry that none of the Participating Shares are held in such a way as to entitle the Directors to give a notice in respect thereof pursuant to Clause 11.04 below provided that the Directors may upon an application for Participating Shares or at any other time and from time to time require such evidence and/or undertakings to be furnished to them in connection with the matters stated in Clause 11.01 as they shall in their discretion deem sufficient.

11.03 If a person becomes aware that he is holding or owning Participating Shares in contravention of Clause 11.01 he shall forthwith in writing request the ICAV to redeem such Participating Shares in accordance with Clause 12.00 of this Instrument or transfer such Participating Shares to a person duly qualified to hold the same unless he has already received a notice under Clause 11.04.

11.04 If it shall come to the notice of the Directors or if the Directors shall have reason to believe that any Participating Shares are owned directly or beneficially by any person or persons in breach of any restrictions imposed by the Directors pursuant to Clause 11.01 the Directors

shall be entitled to:

- (a) give notice (in such form as the Directors deem appropriate) to such person requiring him to:
  - (i) transfer such Participating Shares to a person who is qualified or entitled to own the same without contravening any restriction imposed by the Directors, or
  - (ii) request in writing the redemption of such Participating Shares in accordance with Clause 12.00 and/or
- (b) appropriate, compulsorily redeem and/or cancel such number of Participating Shares held by such person as is required to discharge and may apply the proceeds of such compulsory redemption in the discharge of any taxation or withholding tax arising as a result of the holding or beneficial ownership of Participating Shares by such person including any interest or penalties payable thereon. The Directors may also redeem any Participating Shares held by a Shareholder for the purposes of satisfying any performance fee payable by that Shareholder to the Manager or the Investment Manager in respect of a particular Fund or Class. The Directors may also redeem any Participating Shares held by a Shareholder in order to meet any charges incurred by a Fund as a result of it borrowing monies on a temporary basis pending receipt of subscription monies from the relevant Shareholder.

11.05 If any person upon whom such a notice is served as aforesaid does not within 28 days after such notice has been served transfer the Participating Shares the subject matter of the notice or request in writing the ICAV to redeem the Participating Shares, he shall be deemed forthwith upon the expiration of the said 28 days to have requested the redemption of all his Participating Shares the subject of such notice whereupon the ICAV shall be deemed to be appointed his attorney with authority to appoint any person to sign on his behalf such documents as may be required for the purposes of the redemption. To any such redemption the provisions of Clause 12.00 shall apply subject to Clause 11.06 below save that the deemed request to redeem the Participating Shares may not be withdrawn notwithstanding that the determination of the Net Asset Value of the relevant Fund or Class of Participating Shares may have been suspended under Clause 15.04 of this Instrument.

11.06 Settlement of any redemption or transfer effected pursuant to Clause 11.04 or 11.05 hereof, shall be effected by depositing the redemption monies or proceeds of sale in a bank for payment to the person entitled subject to such consents as may be necessary being obtained. Upon deposit of the redemption monies as aforesaid such person shall have no further interest in such Participating Shares or any of them or any claim in respect thereof except the right to claim without recourse to the ICAV the redemption monies so deposited without interest.

11.07 Any person or persons to whom Clauses 11.01, 11.02, 11.04 or 11.05 shall apply shall indemnify the ICAV, the Directors, the Manager, the Investment Manager the Administrator,

the Distributors, the Depositary and any Member for any loss suffered by any or all of them as a result of such person or persons acquiring or holding Participating Shares in the ICAV.

11.08 If the ICAV becomes liable to account for tax in any jurisdiction in the event that a Shareholder or beneficial owner of a Participating Share were to receive a distribution in respect of his/her Participating Shares or to dispose (or deemed to have disposed) of his/her Participating Shares in any way (a "chargeable event"), the ICAV shall be entitled to deduct from the payment arising on a chargeable event an amount equal to the appropriate tax and/or where applicable, to appropriate, cancel or compulsorily redeem such number of Participating Shares held by the Shareholder or such beneficial owner as are required to meet the amount of tax. The relevant Shareholder shall indemnify and keep the ICAV indemnified against loss arising to the ICAV by reason of the ICAV becoming liable to account for tax in any jurisdiction on the happening of a chargeable event if no such deductions, appropriation, cancellation or compulsorily redemption has been made.

11.09

(a) The ICAV shall be entitled to redeem any Participating Share of a Shareholder or any Participating Share to which a person is entitled by transmission provided that:-

- (i) for a period of six years no cheque or confirmation of ownership of Participating Shares sent by the ICAV through the post in a pre-paid letter addressed to the Shareholder or to the person entitled by transmission to the Participating Share at his address on the Register or the last known address given by the Shareholder or the person entitled by transmission to which cheques or confirmations of the ownership on the Register are to be sent has been cashed or acknowledged and no communication has been received by the ICAV from the Shareholder or the persons entitled by transmission;
- (ii) at the expiration of the said period of six years the ICAV has given notice of its intention to redeem such Participating Share or Participating Shares by notice sent by pre-paid letter addressed to the Shareholder or to the person entitled by transmission to the Participating Share at his address on the Register or to the last known address given by the Shareholder or the person entitled by transmission or by advertisement in a national daily newspaper published in Ireland or in a newspaper circulating in the area in which the address of the Shareholder is located;
- (iii) during the period of three months after the date of the giving of such notice and prior to the exercise of the power of redemption the ICAV has not received any communication from the Shareholder or person entitled by transmission; and
- (iv) if the Participating Shares are quoted on a stock exchange the ICAV has first given notice in writing to the appropriate section of such stock exchange of its intention to redeem such Participating Shares, if it is required to do so under the

rules of such stock exchange.

The ICAV shall account to the Shareholder or to the person entitled to such Participating Shares for the net proceeds of such redemption by carrying all moneys in respect thereof as a permanent debt of the ICAV and the ICAV shall be deemed to be a debtor and not a trustee in respect thereof for such Shareholder or other person.

- 11.10 Notwithstanding Clause 11.04, if it shall come to the notice of the Directors or if the Directors shall have reason to believe that any Participating Shares are owned directly or beneficially by any person or persons in breach of restrictions imposed by the Directors pursuant to Clause 11.01, the Directors shall be entitled to give notice (in such form as the Directors deem appropriate) of its intention to compulsorily redeem that person's Participating Shares in consultation with the Manager and/or the Investment Manager. The Directors may charge any such Shareholder, any legal, accounting or administration costs associated with such compulsory redemption. In the event of a compulsory redemption, the Redemption Price per Participating Share will be determined as of the Valuation Point in respect of the relevant Dealing Day specified by the Directors in their notice to the Shareholder. A Shareholder whose Participating Shares are compulsorily redeemed will have no Shareholder rights after the close of business on the date on which the notice of compulsory redemption is issued. The proceeds of a compulsory redemption shall be paid in accordance with Clause 11.00 hereof.

## **12.00 REDEMPTION OF SHARES**

- 12.01 As is more specifically described herein below, the ICAV has the power to redeem its own outstanding fully paid Participating Shares on any Dealing Day. A Shareholder may at any time request the ICAV to redeem all or any of his Participating Shares in the ICAV in such manner as the Directors may from time to time decide. Subject to Clause 12.14, any such request shall be irrevocable save with the consent in writing of the ICAV or its authorised agent. The Directors may at their discretion impose a minimum redemption amount in relation to any particular Fund or Class.
- 12.02 Subject to Clauses 11.04 and 11.05, a redemption request shall not be processed until the ICAV has received a completed redemption request and, if applicable, evidence satisfactory to the ICAV of succession or assignment from the Shareholder and such other information or documentation as the ICAV may reasonably require by such time as may from time to time be specified in the Prospectus or relevant Supplement.
- 12.03 In the event of receipt of a valid redemption request by such time as may from time to time be specified by the ICAV, the ICAV shall redeem the Participating Shares the subject of the request subject to any suspension of this redemption obligation pursuant to Clause 15.04 hereof PROVIDED THAT the Directors may, in their discretion, accept a redemption request for processing on a Dealing Day notwithstanding that such request may have been received after the time specified from time to time by the Directors for the receipt of redemption requests for such Dealing Day so long as such redemption is received prior to the Valuation

Point for such Dealing Day. Participating Shares in the capital of the ICAV which are redeemed by the ICAV shall be cancelled and the amount of issued share capital of the ICAV shall be reduced by the amount of consideration paid by the ICAV for the purchase or other transfer of the Participating Shares.

- 12.04 Following the processing of a redemption request, the Shareholder will be paid a price per Participating Share equal to the Redemption Price per Participating Share ascertained by:-
- (a) determining the Net Asset Value per Participating Share as at the Valuation Point for the relevant Dealing Day in accordance with the provisions of Clause 15.00 hereof;
  - (b) deducting therefrom a provision for Duties and Charges if the Directors so determine;
  - (c) in the event of requests for redemption exceeding subscription applications for the relevant Fund on any Dealing Day and if the Directors so determine, deducting therefrom such provision representing an anti-dilution levy to provide for market spreads, dealing costs and preserve the value of the underlying assets of the relevant Fund as the Directors determine; and
  - (d) rounding the resulting total to the nearest cent as the Directors may determine and as set out in the Prospectus.
- 12.05 A redemption charge not exceeding 3% of the Net Asset Value per Participating Share may be deducted from the Net Asset Value per Participating Share for the absolute use and benefit of the ICAV, or as it may direct and the Directors may at their discretion waive, either wholly or partially, such redemption charge or differentiate between Shareholders as to the amount of such redemption charge, if any, within the permitted limit. The ICAV shall not increase the maximum redemption charge without approval of Shareholders given on the basis of a simple majority of votes cast in a general meeting of the ICAV, a Fund or Class, as relevant, or with the prior written approval of the Shareholders of the ICAV, Fund or Class, as relevant, in accordance with the requirements of Clause 21.14. In the event of an increase in the redemption charge a reasonable notification period will be provided to the Shareholders to enable Shareholders to redeem Shares prior to the implementation of the increase.
- 12.06 Any amount payable to a Shareholder under this Clause shall be paid in the Base Currency or such other currency or currencies as the Directors shall have determined as appropriate and shall be dispatched no later than ten (10) Business Days after the latest time for receipt of redemption requests for the relevant Dealing Day.
- 12.07 The minimum value of Participating Shares which a Shareholder may redeem in any one transaction (if any) shall be the Minimum Transaction Size specified in the relevant Supplement provided that the Directors, may, in their discretion, waive or reduce the Minimum Transaction Size (or permit the Manager to waive or reduce the Minimum Transaction Size) with respect to any Shareholder or applicant for Participating Shares. If a redemption of part only of a Shareholder's holding of Participating Shares would leave the Shareholder holding

less than the Minimum Holding, the ICAV may redeem the whole of that Shareholder's holding, provided that the Directors may, in their discretion, waive or reduce the Minimum Holding (or permit the Manager to waive or reduce the Minimum Holding) with respect to any Shareholders or applicant for Participating Shares.

- 12.08 Subject as is hereinafter provided in Clause 12.14 and as provided in Clause 12.01, a Shareholder shall not be entitled to withdraw a request for redemption duly given in accordance with this Clause.
- 12.09 If (i) the number of Participating Shares of a particular Fund in respect of which redemption requests have been received on any Dealing Day equals 10% or more of the total number of Participating Shares in issue in that particular Fund; or (ii) the value of Participating Shares of a particular Fund in respect of which redemption requests have been received on any Dealing Day equals 10% or more of the Net Asset Value of the Fund, the Directors or their delegate may in their discretion refuse to redeem, in the case of (i) above, any Participating Shares in that Fund in excess of 10% of the total number of Participating Shares in issue in that Fund or, in the case of (ii) above, any Participating Shares in that Fund in excess of 10% of the Net Asset Value of the relevant Fund and, if they so refuse, the requests for redemption on such Dealing Day shall be reduced pro rata and the Participating Shares to which each request relates which are not redeemed by reason of such reduction shall be treated as if a request for redemption had been made in respect of each subsequent Dealing Day until all the Participating Shares to which the original request related have been redeemed.
- 12.10 The ICAV may, at the discretion of the Directors and with the consent of the relevant Shareholders, satisfy any request for redemption of Participating Shares by the transfer in specie to a Shareholder requesting redemption of assets of the relevant Fund having a value (calculated in accordance with Clause 16.00) equal to the Redemption Price for the Participating Shares redeemed as if the redemption proceeds were paid in cash less any redemption charge and other expenses of the transfer as the Directors may determine provided that the Shareholder requesting redemption consents to such transfer in specie. A determination to provide redemption in specie may be solely at the discretion of the ICAV where the redeeming Shareholders requests redemption of a number of Participating Shares that represents 5% or more of the Net Asset Value of the relevant Fund. In this event, the ICAV will if requested sell any asset or assets proposed to be distributed in specie and distribute to such Shareholder the cash proceeds less the costs of such sale which shall be borne by the relevant Shareholder. The nature and type of assets to be transferred in specie to each Shareholder shall be determined by the Directors or their delegate (subject to the approval of the Depositary as to the allocation of assets) on such basis as the Directors or their delegate in their discretion shall deem equitable and not prejudicial to the interests of the remaining Shareholders in the relevant Fund or Class and shall be subject to the approval of the Depositary.
- 12.11 If the ICAV is required to deduct, withhold or account for tax including any penalties and interest thereon upon the occurrence of certain events such as the encashment, redemption, disposal or deemed disposal of Participating Shares by or payment of distribution to a



Shareholder (whether upon a redemption or transfer of Participating Shares or payment of a dividend or deemed disposal of Participating Shares or otherwise), the Directors may deduct or arrange for the deduction from the proceeds due to be paid to a Shareholder of a cash amount equal to the liability or in accordance with the procedures in Clause 11 hereof may arrange for the compulsory redemption and cancellation of such number of Participating Shares of such Shareholder as is sufficient after the deduction of any redemption charges to discharge any such liability and the relevant Shareholder shall indemnify and keep indemnified the ICAV against any loss suffered by it in connection with any obligation or liability to so deduct, withhold or account.

- 12.12 If the determination of the Net Asset Value of any Fund or Class has been suspended pursuant to Clause 15.04 hereof the right of a Shareholder to have his Participating Shares redeemed pursuant to this Clause shall be similarly suspended and during the period of suspension he may withdraw any request for redemption of his Participating Shares. Any withdrawal of a request for redemption under the provisions of this Clause shall be made in writing and shall only be effective if actually received by the ICAV or its duly authorised agent before termination of the suspension. If the request is not withdrawn during the period of suspension the redemption of Participating Shares shall be effected on the Dealing Day next following the end of the suspension subject to Clause 12.11.
- 12.13 Where all the Participating Shares in a Class or Fund have been redeemed, the Directors may subsequent to such redemption make a subsequent issue of Participating Shares in that Class or Fund at a Subscription Price per Participating Share determined by the Directors. Any such issue of Participating Shares pursuant to this Clause shall be in accordance with the requirements of the Central Bank.
- 12.14 Where relevant, if a redeeming Shareholder owns Participating Shares of more than one Series within a Class, Participating Shares will be redeemed on a "first in-first out" basis for the purposes of determining the Redemption Price. Accordingly, Participating Shares of the earliest issued Series owned by the Shareholder will be redeemed first, at the relevant repurchase price for Participating Shares of such Series, until the redeeming Shareholder no longer owns any Participating Shares attributable to such Series.
- 12.15 Where all the Participating Shares in the ICAV or a Class have been redeemed, the Directors may subsequent to such redemption make a subsequent issue of Participating Shares in the ICAV or that Class at a price per Participating Share determined by the Directors. Any such issue of Participating Shares pursuant to this Clause shall be in accordance with the requirements of the Central Bank.
- 12.16 At any time, subject to the Act, the ICAV shall be entitled to redeem all or some of the issued Management Shares or to procure the transfer of the issued Management Shares to any person(s) entitled to hold shares in the ICAV. On any such redemption, the holder of the Management Share(s) shall be entitled to receive an amount not to exceed the consideration paid for such Management Share(s).

### **13.00 TOTAL REDEMPTION**

- 13.01 The ICAV may by not less than two nor more than twelve weeks' notice to Shareholders of the relevant Fund or Class expiring on a Dealing Day, redeem at the Redemption Price on such Dealing Day, all of the Participating Shares in any Fund or Class or all Funds or Classes not previously redeemed.
- 13.02 The ICAV shall redeem all of the Participating Shares in any Fund or Class not previously redeemed if the holders of 75% in value of the Participating Shares in issue of the relevant Fund or Class resolve at a meeting of the Shareholders of such Fund or Class duly convened and held that such Participating Shares should be redeemed.
- 13.03 The ICAV may redeem at the Redemption Price with respect to such Redemption Day, all of the Participating Shares in any Fund or Class or all Funds or Classes not previously redeemed in the circumstances set out in Clause 37.00.
- 13.04 If all of the Participating Shares in a particular Fund or Class are to be redeemed as aforesaid the Directors, with the sanction of an Ordinary Resolution of the relevant Fund or Class, may divide amongst the Shareholders in specie all or part of the assets of the relevant Fund or Class according to the Net Asset Value of the Participating Shares then held by each Shareholder in the relevant Fund or Class in accordance with Clause 15.00 hereof provided that any Shareholder shall be entitled to request, at the expense of such Shareholder, the sale of any asset or assets proposed to be so distributed and the distribution to such Shareholder of the cash proceeds of such sale.
- 13.05 If all of the Participating Shares of the ICAV are to be redeemed as aforesaid the ICAV, with the approval of the Shareholders by Ordinary Resolution, may divide amongst the Shareholders in specie all or part of the assets of the ICAV according to the Net Asset Value of the Participating Shares then held by each Shareholder as determined in accordance with Clause 15.00 hereof.
- 13.06 If all the Participating Shares in the ICAV or a Fund or Class are to be redeemed as aforesaid and the whole or any part of the business or property of the ICAV or relevant Fund or any of the assets of the ICAV or Fund are proposed to be transferred or sold to another company (hereinafter called "the Transferee") the Directors may, with the sanction of a Special Resolution of the ICAV or the relevant Fund or Class conferring either a general authority on the Directors or an authority in respect of any particular arrangement, receive in compensation or part compensation for such transfer or sale shares, units, policies or other like interests or property in or of the Transferee for distribution among the said Shareholders, or may enter into any other arrangement whereby the said Shareholders may in lieu of receiving cash or property or in addition thereto participate in the profits of or receive any other benefit from the Transferee.
- 13.07 The Directors may resolve in their absolute discretion to retain sufficient monies prior to effecting a total redemption of Participating Shares to cover the costs associated with the

subsequent termination of a Fund or the liquidation of the ICAV.

**14.00 CONVERSION OF SHARES**

- 14.01 Subject as hereinafter provided and to any Minimum Subscription, Minimum Holding and subject to any Minimum Transaction Size requirements of the relevant Fund or Classes (if any) and to any restrictions imposed pursuant to this Instrument, a Shareholder of any Fund or Class (the "Original Fund") may request the conversion of all or any Participating Shares held by him into Participating Shares of another Fund or Class or another Class in the same Fund (the "New Fund") either existing or established as provided herein. The Directors may refuse to accept a conversion request without assigning any reason therefor.
- 14.02 A Shareholder may request the conversion of Participating Shares by giving to the ICAV a notice (hereinafter called "Conversion Notice") in such form and by such time and means as the Directors may from time to time determine together with such evidence of title as the Directors may require provided that the Shareholder otherwise satisfies the criteria determined by the Directors for investment in the New Fund.
- 14.03 Following receipt by the ICAV of a Conversion Notice the conversion of Participating Shares specified in a Conversion Notice shall be effected on a day which is a Dealing Day for the Original Fund and the New Fund or on such other Dealing Days as the Directors may determine PROVIDED THAT the Directors may, in their discretion, accept a conversion request for processing on a Dealing Day notwithstanding that such request may have been received after the time specified from time to time by the Directors for the receipt of conversion requests for such Dealing Day so long as such conversion request is received prior to the Valuation Point for the relevant Dealing Day.
- 14.04 A Shareholder requesting conversion shall not without the written consent of the ICAV or its authorised agent be entitled to withdraw a Conversion Notice duly made in accordance with this Clause except in circumstances in which he would be entitled to withdraw a request for redemption of Participating Shares.
- 14.05 Conversion of Participating Shares specified in a Conversion Notice may, subject to the Regulations, and this Instrument, be effected in such manner as may be determined by the Directors and without prejudice to the generality of the foregoing may be effected by the redemption of Participating Shares of the Original Fund (save that the redemption monies shall not be released to the Shareholder requesting conversion) and the issue of Participating Shares in the New Fund.
- 14.06 The number of Participating Shares of the New Fund to be issued on conversion shall be determined by the Directors in accordance (or as nearly as may be in accordance) with the following formula:

$$S = \frac{(R \times RP \times ER) - F}{SP}$$

where:-

S = the number of Participating Shares of the New Fund to be allotted;

R = the number of Participating Shares of the Original Fund to be redeemed;

RP = is the Redemption Price per Participating Share of the Original Fund for the relevant Dealing Day;

ER = is the currency conversion factor (if any) as determined by the Administrator;

F = is the conversion charge (if any) of up to 1% of the Net Asset Value of the Participating Shares in the Original Fund;

SP = the Net Asset Value per Participating Share of the New Fund at the Valuation Point on the relevant Dealing Day.

14.07 Upon conversion of Participating Shares as provided for herein the Directors shall cause assets or cash equal to the value of "S" as defined in Clause 14.06 to be transferred to the New Fund.

14.08 The Directors may charge a fee on the conversion of Participating Shares in any Fund or Class into Participating Shares in another Fund or Class or another Class in the same Fund up to a maximum of 1% of Net Asset Value of Participating Shares in the Original Fund.

14.09 Where a conversion request would result in a Shareholder holding a number of Participating Shares in either the Original Fund or the New Fund which would be less than the Minimum Holding for the New Fund, the Directors may, if they think fit, convert the whole of such Shareholder's holding in the Original Fund to Participating Shares in the New Fund or refuse to effect any conversion from the Original Fund.

14.10 Fractions of Participating Shares of the New Fund may be issued on conversion subject to Clause 9.09.

#### **15.00 DETERMINATION OF NET ASSET VALUE**

15.01 The Directors shall on or with respect to each Valuation Day, or may authorize the Manager to do so, determine the Net Asset Value of each Fund or, if there are different Classes within a Fund, attributable to each Class and the Net Asset Value per Participating Share in accordance with the following provisions.

15.02 The Net Asset Value of a Fund shall be determined as at the Valuation Point for the relevant Valuation Day by ascertaining the value of the assets of the Fund pursuant to Clause 16.01 hereof and deducting the liabilities of the relevant Fund, having regard to the principles

determined by the Directors in their absolute discretion as appropriate to be observed in determining the Net Asset Value of each Fund, or if there are different Classes within a Fund, attributable to each Class and the Net Asset Value per Participating Share. The Net Asset Value attributable to a Class or, where relevant, Series shall be determined as at the Valuation Point for the relevant Valuation Day by calculating that portion of the Net Asset Value of the relevant Fund attributable to the relevant Class or, where relevant, Series as at the Valuation Point by reference to the number of Participating Shares in issue or deemed to be in issue in each Class or, where relevant, Series on the relevant Valuation Day subject to adjustment to take account of assets and/or liabilities attributable to each Class or, where relevant, Series. The Net Asset Value of a Fund will be expressed in the Base Currency of the Fund, or in such other currency as the ICAV may determine either generally or in relation to a particular Class or in a specific case.

- 15.03 The Net Asset Value per Participating Share shall be determined as at the Valuation Point on or with respect to each Valuation Day by dividing the Net Asset Value of the relevant Fund or attributable to a Class or where relevant a Series by the number of Participating Shares in issue or deemed to be in issue in such Fund or Class or where relevant Series at the Valuation Point on or with respect to the relevant Valuation Day and rounding the resulting total to two decimal places or such other number of decimal places as the Directors may determine and disclose in the Prospectus.
- 15.04 Where the Net Capital Activity in respect of a Fund on a given Business Day leads to (i) a net inflow of assets in excess of the Threshold in the relevant Fund, the Directors may determine that the Net Asset Value per Share used to process all subscriptions, redemptions or conversions in that Fund on that Business Day be adjusted upwards by the Swing Factor; (ii) a net outflow of assets in excess of the Threshold in the relevant Fund, the Directors may determine that the Net Asset Value per Share used to process all subscriptions, redemptions or conversions in that Fund on that Business Day be adjusted downwards by the Swing Factor.

For the purposes of this Article 15.04, the following terms shall have the following meanings:

“Net Capital Activity” means the net cash movement of subscriptions and redemptions into and out of a particular Fund across all share classes on a given Business Day.

“Swing Factor” means such amount, as determined by the Directors, by which the Net Asset Value per Share may be adjusted upwards or downwards in order to take account of dealing, other costs and fiscal charges which would be payable on the effective acquisition or disposal of assets in the relevant Fund, provided that the swing factor shall not exceed 1.00 per cent of the Net Asset Value per Share of the relevant Fund and provided further that, for the purpose of calculating the expenses of a Fund which are based on the Net Asset Value of the relevant Fund, the Administrator will continue to use the un-swung Net Asset Value.

“Threshold” means the threshold amount applicable to “Net Capital Activity”, as determined by the Directors from time to time, beyond which threshold amount the Swing Factor shall apply.

15.05 The Directors may at any time and from time to time temporarily suspend the determination of the Net Asset Value of a Fund or attributable to a Class and the issue, redemption and conversion of Participating Shares in any Fund or Class, in the following instances:

- (a) during the whole or part of any period (other than ordinary holidays or customary weekends) when any of the Recognised Exchanges on which Investments of the relevant Fund are quoted, listed, traded or dealt are closed or during which dealings therein are restricted or suspended or trading is suspended or restricted;
- (b) during the whole or part of any period when circumstances outside the control of the Directors exist as a result of which any disposal or valuation by the ICAV of Investments of the relevant Fund is not reasonably practicable or would be detrimental to the interests of Shareholders or it is not possible to transfer monies involved in the acquisition or disposition of Investments to or from the relevant account of the ICAV;
- (c) during the whole or part of any period when any breakdown occurs in the means of communication normally employed in determining the value of any of the Investments of the relevant Fund;
- (d) during the whole or part of any period when for any reason the value of any Investments of the relevant Fund cannot be reasonably, promptly or accurately ascertained;
- (e) during the whole or part of any period when subscription proceeds cannot be transmitted to or from the account of any Fund or the ICAV is unable to repatriate funds required for making redemption payments or when such payments cannot, in the opinion of the Directors, be carried out at normal rates of exchange;
- (f) upon mutual agreement between the ICAV and the Depositary for the purpose of winding up the ICAV or terminating any Fund or Class;
- (g) during any period when, as a result of political, economic, military or monetary events or any circumstances outside of the control, responsibility and power of the ICAV, disposal or valuation of a substantial portion of the Investments of the relevant Fund is not reasonably practicable without being seriously detrimental to the interests of the Shareholders of the relevant Fund or if, in the opinion of the Directors, the Net Asset Value of the Fund cannot be fairly calculated; or
- (h) if any other reason makes it impossible or impracticable to determine the value of a substantial portion of the Investments.

15.06 Notice of any such suspension shall be notified immediately to the Central Bank and in any event within the working day on which such suspension took effect. Notice shall also be given immediately to the Irish Stock Exchange where relevant and where possible all

reasonable steps shall be taken to bring any period of suspension to an end as soon as possible.

- 15.07 No Participating Shares will be issued or redeemed on any Dealing Day when the determination of the Net Asset Value is suspended. In such a case, a Shareholder may withdraw his application or conversion or redemption request, provided that a withdrawal notice is actually received by the Administrator before the suspension is terminated. Unless withdrawn, applications and redemption requests for Participating Shares will be acted upon on the first Dealing Day, as the case may be, after the suspension is lifted at the relevant Subscription Price or Redemption Price (as the case may be) prevailing on that day.

## **16.00 VALUATION OF INVESTMENTS**

- 16.01 The value of the Investments of each Fund shall be determined as at the Valuation Point as follows:-

- (a) Securities which are quoted, listed or traded on a Recognised Exchange save as hereinafter provided at (d), (f), (g), (h) and (i) will be valued at the last traded price. Where a security is listed or dealt in on more than one Recognised Exchange the relevant exchange or market shall be the principal stock exchange or market on which the security is listed or dealt on or the exchange or market which the Directors or the Manager determine provides the fairest criteria in determining a value for the relevant investment. Securities listed or traded on a Recognised Exchange, but acquired or traded at a premium or at a discount outside or off the relevant exchange or market may be valued by a competent person, firm or corporation (including the Investment Manager) selected by the Directors and approved for the purpose by the Depositary, taking into account the level of premium or discount at the Valuation Point provided that the Depositary shall be satisfied that the adoption of such a procedure is justifiable in the context of establishing the probable realisation value of the security.
- (b) The value of any security which is not quoted, listed or dealt in on a Recognised Exchange or which is so quoted, listed or dealt but for which no such quotation or value is available or the available quotation or value is not representative of the fair market value shall be the probable realisation value as estimated with care and good faith by
- (i) the Directors or the Manager;
  - (ii) a competent person appointed by the Directors or the Manager and approved for the purpose by the Depositary; or
  - (iii) by any other means provided the value is approved by the Depositary.

Where reliable market quotations are not available for fixed income securities the value of such securities may be determined using matrix methodology compiled by the Directors whereby such securities are valued by reference to the valuation of other securities which are comparable in rating, yield, due date and other characteristics.

- (c) Cash in hand or on deposit will be valued at its nominal/face value plus accrued interest, where applicable, to the end of the relevant day on which the Valuation Point occurs.
- (d) Derivative contracts traded on a regulated market including without limitation futures and options contracts and index futures shall be valued at the settlement price as determined by the market where the derivatives contract is traded. If the settlement price is not available, the value shall be the probable realisation value estimated with care and in good faith by (i) the Directors or the Manager; or (ii) a competent person firm or corporation (including the Investment Manager) selected by the Directors or the Manager and approved for the purpose by the Depositary; or (iii) any other means provided that the value is approved by the Depositary.
- (e) Derivative contracts which are not traded on a regulated market may be valued either using the counterparty valuation or an alternative valuation such as a valuation calculated by the ICAV or by an independent pricing vendor. The ICAV must value an OTC derivative on a daily basis. Where the ICAV values an OTC derivative which is not traded on a regulated market and which is not cleared by a clearing counterparty the valuation shall be on the basis of the mark to market value of the derivative contract or if market conditions prevent marking to market, reliable and prudent marking to model may be used. Where the ICAV values an over the counter derivative which is cleared by a clearing counterparty using the clearing counterparty valuation, the valuation must be approved or verified by a party who is approved for the purpose by the Depositary and who is independent of the counterparty and the independent verification must be carried out at least weekly. The reference to an independent party may include any Investment Manager. It can also include a party related to the counterparty provided the related party constitutes an independent unit within the counterparty's group which does not rely on the same pricing models employed by the counterparty. Where the independent party is related to the OTC counterparty and the risk exposure to the counterparty may be reduced through the provision of collateral, the position must also be subject to verification by an unrelated party to the counterparty on a six monthly basis.
- (f) Forward foreign exchange and interest rate swap contracts shall be valued in the same manner as OTC derivatives contracts as detailed at paragraph (e) above or by reference to freely available market quotations and market practices.
- (g) Notwithstanding paragraph (a) above units in collective investment schemes shall be valued at the latest available net asset value per unit or bid price as published by the relevant collective investment scheme or, if listed or traded on a Recognised Exchange, in accordance with (a) above.
- (h) In the case of a Fund which complies with the Central Bank's requirements for short-term money market funds, the Directors or the Manager may use the amortised cost method of valuation provided that a review of the amortised cost valuation vis-à-vis market valuation will be carried out in accordance with the Central Bank's guidelines.



- (i) In the case of a Fund which is not a short-term money market fund, the Directors or the Manager may value Money Market Instruments using the amortised cost method of valuation provided the Money Market Instrument has a residual maturity of less than three months and does not have any specific sensitivity to market parameters, including credit risk,
- (j) The Directors may, with the approval of the Depositary, adjust the value of any Financial Instrument if having regard to its currency, marketability, applicable interest rates, anticipated rates of dividend, maturity, liquidity or any other relevant considerations, they consider that such adjustment is required to reflect the fair value thereof.
- (k) Any value expressed otherwise than in the Base Currency of the relevant Fund shall be converted into the Base Currency of the relevant Fund at the prevailing exchange rate which is available to the Administrator and which is normally obtained from Bloomberg or Reuters or such other data provider.
- (l) Where the value of any Financial Instrument is not ascertainable as described above, the value shall be the probable realisation value estimated by the Directors or the Manager with care and in good faith or by a competent person appointed by the Directors and approved for the purpose by the Depositary.
- (m) In the event of it being impossible, impractical or incorrect to carry out a valuation of a specific Financial Instrument in accordance with the valuation rules set out above, or if such valuation is not representative of a Financial Instrument's fair market value and the Directors deem it necessary to do so, the Directors or the Manager is entitled to use other generally recognised valuation methods in order to reach a proper valuation of that specific Financial Instrument, provided that any alternative method of valuation is approved by the Depositary and the rationale / methodologies are clearly documented.

Notwithstanding the valuation rules set out in paragraphs (a) to (l) above, in calculating the value of Financial Instruments of a Fund, the Directors or the Manager may value the Financial Instruments of a Fund on a mid-market basis, a bid basis or, in the case of dual-pricing, on a bid and offer basis. Valuations may be carried out by the ICAV on an offer basis where total subscriptions on a Dealing Day exceed total redemption requests, or the Directors may switch from mid-market to bid basis when total redemption requests on a Dealing Day exceed total subscriptions.

The valuation methodologies including processes which allow for a switch from a mid-market to a bid and offer basis must be applied on a consistent basis throughout the life of the relevant Fund.

16.02 In calculating the value of assets of each Fund, the following principles will apply:-

- (a) every Participating Share agreed to be issued by the Directors with respect to each Dealing Day shall be deemed to be in issue at the Valuation Point and the assets of the relevant Fund shall be deemed to include not only cash and property in the hands of the Depositary but also the amount of any cash or other property to be received in

respect of Participating Shares agreed to be issued after deducting therefrom (in the case of Participating Shares agreed to be issued for cash) or providing for preliminary charges;

- (b) where Investments have been agreed to be purchased or sold but such purchase or sale has not been completed, such Investments shall be included or excluded and the gross purchase or net sale consideration excluded or included as the case may require as if such purchase or sale had been duly completed unless the Directors have reason to believe such purchase or sale will not be completed;
- (c) there shall be added to the assets of the relevant Fund any actual or estimated amount of any taxation of a capital nature which may be recoverable by the ICAV which is attributable to that Fund;
- (d) there shall be added to the assets of each relevant Fund a sum representing unamortised expenses and a sum representing any interest, dividends or other income accrued but not received (interest, dividends or other income being deemed to have accrued) unless the Directors are of the opinion that such interest, dividends or other income are unlikely to be paid or received in full in which case the value thereof shall be arrived at after making such discount as the Directors or their delegate (with the approval of the Depositary) may consider appropriate in such case to reflect the true value thereof;
- (e) there shall be added to the assets of each relevant Fund the total amount (whether actual or estimated by the Directors or a competent person appointed by the Directors and approved for the purpose by the Depositary) of any claims for repayment of any taxation levied on income or capital gains including claims in respect of double taxation relief; and
- (f) where notice of the redemption, reduction or cancellation of Participating Shares has been given to the Depositary but such redemption, reduction or cancellation has not been completed, the Participating Shares to be redeemed, reduced or cancelled shall be deemed not to be in issue and the Net Asset Value of the relevant Fund shall be reduced by the amount payable upon such redemption, reduction or cancellation.

16.03 The liabilities of each Fund or Class of Participating Share as at the Valuation Point shall be valued by reference to the prices or value as at the Valuation Point and shall be deemed to include:-

- (a) the total amount of any actual or estimated liabilities properly payable out of the assets of the relevant Fund and any and all outstanding borrowings of the ICAV in respect of the relevant Fund including, in the case of all interest on such liabilities, the total amount thereof accrued up to the relevant Valuation Day; in the case of fees and expenses payable on such liabilities (but excluding liabilities taken into account in determining the value of the assets of the ICAV) the total amount thereof payable on

or prior to the relevant Valuation Day; and in the case of unrealised capital gains any estimated liability for tax thereon;

- (b) such sum in respect of tax (if any) on net capital gains realised on the assets of the relevant Fund during the current Accounting Period prior to the valuation being made as in the estimate of the Directors will become payable;
- (c) the amount (if any) of any distribution declared by the Shareholders of the relevant Fund or the Directors pursuant to Clause 31.00 hereof in respect of the last preceding Accounting Period but not distributed in respect thereof;
- (d) the total amount (whether actual or estimated by the Directors or a competent person appointed by the Directors and approved for the purpose by the Depositary) of any liabilities for taxation leviable on income of the relevant Fund including income tax and corporation tax, if any, (but not taxes leviable on capital or on realised or unrealised capital gains);
- (e) the total amount of any actual or estimated liabilities for withholding tax (if any) payable on any of the Investments of the relevant Fund in respect of the current Accounting Period;
- (f) the remuneration of the Administrator, the Depositary, the Manager, the Investment Manager, any Distributor and any other providers of services to the ICAV (including, without limitation, any performance related fee payable to the Manager or the Investment Manager from time to time and described in the Prospectus), calculated and payable by reference to the Net Asset Value of the relevant Fund and accrued but remaining unpaid together with a sum equal to the value added tax chargeable thereon (if any) payable on or prior to the relevant Valuation Day;
- (g) the total amount (whether actual or estimated by the Directors or a competent person appointed by the Directors and approved for the purpose by the Depositary) of any other liabilities (other than the remuneration of the Administrator, the Depositary, the Manager, the Investment Manager and the Distributor) properly payable out of the assets of the relevant Fund (including all establishment, operational and ongoing administrative fees, costs and expenses) on or prior to the relevant Valuation Day;
- (h) an amount as of the relevant Valuation Point representing the projected liability of the relevant Fund in respect of costs and expenses to be incurred by the relevant Fund in the event of a subsequent liquidation;
- (i) an amount as of the relevant Valuation Point representing the projected liability of calls on Participating Shares in respect of any options written by the relevant Fund or Class of Participating Shares;
- (j) any other liability of the type referred to in Clause 3.03 hereof.

- 16.04 Where hedging strategies are used in relation to a Fund or Class of Participating Shares, the financial instruments used to implement such strategies shall be deemed to be assets or liabilities (as the case may be) of the relevant Fund as a whole but the gains/losses on and the costs of the relevant financial instruments will accrue solely to the relevant Class.
- 16.05 The Directors or their delegate shall ensure that the Net Asset Value per Participating Share is made available promptly to Shareholders upon request.
- 16.06 Without prejudice to Clause 25.01 hereof, the Directors may delegate any of their powers, authorities and discretions in relation to the determination of the value of any Investment to a committee of the Directors or to any other duly authorised person and may delegate the calculation of Net Asset Value in accordance with the requirements of the Regulations. In the absence of negligence, bad faith, fraud or wilful default, every decision taken by the Directors or any committee of the Directors or any duly authorised person on behalf of the ICAV in determining the value of any Investment or calculating the Net Asset Value shall be final and binding on the ICAV and on present, past or future Shareholders.

## **17 TRANSFER AND TRANSMISSION OF SHARES**

- 17.01 The transfer of shares shall be effected in such denomination as the Directors may from time to time decide in accordance with the following provisions.
- 17.02 No transfer of Management Shares may be effected without the prior written consent of the ICAV.
- 17.03 (a) Transfer of shares may be effected by transfer in writing or such other form as determined by the Directors accompanied by such evidence of ownership as the Directors may reasonably require to show the right of the transferor to make the transfer ("Instrument of Transfer"), signed by or on behalf of the transferor and every transfer shall state the full name and address of the transferor and transferee.
- (b) The Directors may from time to time specify a fee for the registration of instruments of transfer (provided that in relation to a transfer of Participating Shares the maximum fee may not exceed 5% of the Net Asset Value of the Participating Shares the subject matter of the transfer on the Dealing Day immediately preceding the date of the transfer) and which may be retained for the sole use and benefit of the ICAV or its delegate as the Directors in their absolute discretion may determine. The Directors reserve the right to reduce or waive any transfer fee and may distinguish between Members accordingly.
- 17.04 The Instrument of Transfer shall be signed by or on behalf of the transferor and need not be signed by the transferee. The signature on the Instrument may be affixed manually or electronically and may be an actual signature or a facsimile signature or any form of signature approved by the Directors. The Directors shall not be bound to enquire as to the

genuineness of any signature. The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register in respect thereof.

- 17.05 Nothing herein shall prejudice the power of the ICAV to register as a Member any person to whom the rights to any shares in the ICAV has been transmitted by operation of law.
- 17.06 The Directors may, before the end of the period of two months commencing with the date of receipt of the Instrument of Transfer, decline to register the transfer in the following circumstances:
- (i) if in consequence of such transfer, the transferor or the transferee would hold a number of Participating Shares less than the Minimum Holding;
  - (ii) if all applicable taxes and/or stamp duties have not been paid in respect of the Instrument of Transfer and unless the Instrument of Transfer is deposited at the Office or such other place as the Directors may reasonably require, accompanied by such relevant information and declarations as the Directors may reasonably require from the transferee including without limitation, information and declarations of the type which may be requested from an applicant for shares in the ICAV and such fee as may from time to time be specified by the Directors for the registration of any Instrument of Transfer;
  - (iii) where the Directors are aware or reasonably believe the transfer would result in the beneficial ownership of Participating Shares by a person in contravention of any restrictions on ownership imposed by the Directors or might result in legal, regulatory, pecuniary, taxation or material administrative disadvantage to the ICAV, a Fund, a Class of Participating Shares or Shareholders as a whole;
  - (iv) unless the Instrument of Transfer is deposited with the Administrator together with such evidence as is required by the Administrator to satisfy the Administrator as to its or the ICAV's requirements to prevent money laundering;
  - (v) if the registration of such transfer would result in a contravention of any provision of law.
- 17.07 If the Directors decline to register a transfer of any share they shall send to the transferee written notice of such refusal, provided that the Directors are not required to give notice to any person of a refusal to register a transfer where the giving of the notice would result in a contravention of any provision of law.
- 17.08 The registration of transfers may be suspended at such times and for such periods as the Directors may from time to time determine, PROVIDED ALWAYS that such registration of transfers shall not be suspended for more than thirty days in any year.
- 17.09 All Instruments of Transfer evidencing a transfer of shares which shall be registered shall be

retained by the ICAV, but any Instrument of Transfer relating to a transfer of shares which the Directors may decline to register shall (except in the case of fraud) be returned to the person depositing the same.

- 17.10 In the case of the death of a Member, the survivors or survivor where the deceased was a joint holder, and the executors or administrators or other personal representative of the deceased where he was a sole or surviving holder, shall be the only person(s) recognised by the ICAV as having title to his interest in the shares, but nothing in this Clause shall release the estate of the deceased holder whether sole or joint from any liability in respect of any share solely or jointly held by him.
- 17.11 Any guardian of an infant Member and any guardian or other legal representative of a Member under legal disability and any person entitled to a share in consequence of the death, insolvency or bankruptcy of a Member or otherwise by operation of law shall, upon producing such evidence of his title as the Directors may require, have the right either to be registered himself as the holder of the share or shares or to elect to have some person nominated by him registered as the transferee thereof. If the person so becoming entitled elects to be registered himself, he shall deliver or send to the ICAV a notice in writing signed by him stating that he so elects. If he shall elect to have his nominee registered, he shall signify his election by signing and delivering or sending to the ICAV an Instrument of Transfer of such share or shares in favour of his nominee. Any transfer by such person so entitled shall be as valid as if they had been a Member at the time of the execution of the Instrument of Transfer.
- 17.12 All the limitations, restrictions and provisions of this Instrument relating to the right to transfer and the registration of transfers of shares shall be applicable to any notice or Instrument of Transfer given or made pursuant to Clause 17.11 as if the death or bankruptcy of the Member or other event giving rise to the transmission had not occurred and the notice of Instrument of Transfer were an Instrument of Transfer signed by that Member.
- 17.13 A person so becoming entitled to a share in consequence of the death, insolvency or bankruptcy of a Member or otherwise by operation of law shall, upon production of such evidence of his title as the Directors may require, have the right to receive and may give a discharge for all moneys payable or other advantages due on or in respect of the share, but he shall not be entitled to receive notice of or to attend or vote at meetings of the ICAV, nor, save as aforesaid, to any of the rights or privileges of a Member unless and until he shall be registered as a Member in respect of the share PROVIDED ALWAYS that the Directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share and if the notice is not complied with within ninety days the Directors may thereafter withhold all moneys payable or other advantages due in respect of the share until the requirements of the notice have been complied with.
- 17.14 A certification within the meaning of the Act by an ICAV of any Instrument of Transfer shall be taken as a representation by the ICAV to any person acting on the faith of the certificate that there have been produced to the ICAV such documents as on the face of them show a

prima facie title to the shares in the transferor named in the Instrument of Transfer but not as a representation that the transferor has any title to the shares.

17.15 No person whatsoever shall be entitled to be registered on the Register until such person has provided the Directors with such relevant information as they may reasonably require.

17.16 If the ICAV is required to deduct, withhold or account for tax including any penalties and interest thereon upon the transfer of shares by a Member the provisions of Clause 12.11 hereof shall apply mutatis mutandis as if repeated in full herein.

## **18.00 INVESTMENT OBJECTIVES**

18.01

- (a) The ICAV and each Fund may invest only in those Investments permitted by the Regulations subject to the limitations and restrictions set out in the Regulations and any derogations therefrom permitted by the Central Bank.
- (b) With the exception of permitted investments in unlisted securities, or in units of open-ended collective investment schemes and over the counter derivative instruments, investment by the ICAV and each Fund in securities or financial derivative instruments will be made only in securities or financial derivative instruments which are listed or traded on a Recognised Exchange listed in the Prospectus.
- (c) The specific investment objectives and policies of each Fund will be set out in the relevant Supplement to the Prospectus and will be formulated by the Directors at the time of the creation of the relevant Funds.
- (d) Subject to authorisation by the Central Bank each Fund may invest up to 100% of its net assets in transferable securities and money market instruments issued or guaranteed by any Member State, its local authorities, non-Member State or public international bodies of which one or more Member States are members, drawn from the following list:

OECD Member Country (provided the relevant issues are investment grade)

Government of Singapore

Government of the People's Republic of China

Government of Brazil (provided the issues are investment grade)

Government of India (provided the issues are investment grade)

European Investment Bank

European Bank for Reconstruction & Development

International Finance Corporation

International Monetary Fund

Euratom

The Asian Development Bank

Council of Europe

Eurofima  
African Development Bank  
The International Bank for Reconstruction & Development (the World Bank)  
The Inter American Development Bank  
European Union  
European Central Bank  
Federal National Mortgage Association  
Federal Home Loan Mortgage Corporation  
Government National Mortgage Association  
Student Loan Marketing Association  
Federal Home Loan Bank  
Federal Farm Credit Bank  
Tennessee Valley Authority  
Straight-A Funding LLC

A Fund must hold securities from at least 6 different issues, with securities from any one issue not exceeding 30% of net assets.

- (e) The ICAV or a Fund may for the purposes and under the conditions specified in the Regulations own all the issued share capital of any private company or be the sole participant, beneficiary or holder of units or interest in any other vehicle whether incorporated or established by contract or otherwise, which in the interests of Shareholders the Directors consider it necessary or desirable for the ICAV to incorporate or acquire or utilise in connection with the ICAV or a Fund. The shares/interests issued by such a company/vehicle and all of its assets will be held by the Depositary or its sub- depositary or nominee.

18.02 The ICAV and each Fund, and in accordance with the requirements of the Central Bank each Class, may employ derivative instruments and techniques and instruments for the purposes of investment and efficient portfolio management and the ICAV and each Fund and each Class may employ derivative instruments and techniques and instruments intended to provide protection against exchange risks in each case under the conditions and within the limits laid down from time to time by the Central Bank.

18.03 For the purpose of providing margin or collateral in respect of transactions in and the use of derivative instruments and techniques and instruments, the ICAV shall be entitled:-

- (a) to transfer, deposit, mortgage, charge or otherwise encumber any Investments forming part of the ICAV or the relevant Fund;
- (b) to vest any such Investments in the relevant Recognised Exchange or market or counterparty or any company controlled by such Recognised Exchange or market or any counterparty and used for the purpose of receive margin and/or cover or in a nominee of the Depositary; and/or



- (c) to give or obtain the guarantee of a bank (and to provide any necessary counter-security therefor) and deposit such guarantee or cash, with a Recognised Exchange or counterparty or any company controlled by such Recognised Exchange or counterparty and used for the purpose of receiving margin and/or cover.

18.04 A Fund may in accordance with the requirements of the Central Bank replicate the composition of a stock or debt securities or other financial index which is recognised by the Central Bank.

18.05 A Fund may hold ancillary liquid assets.

18.06 Save where otherwise determined by the Directors and specified in the relevant Supplement, no more than 10% of a Fund's assets may be invested in aggregate in units of other collective investment undertakings.

18.07 The investment objective of a Fund may not be altered and material changes in the investment policy of a Fund may not be made without the prior written approval of all Shareholders or the approval of Shareholders on the basis of an Ordinary Resolution.

#### **19.00 GENERAL MEETINGS**

19.01 All general meetings of the ICAV shall be held in Ireland.

19.02 Subject to Clauses 19.03 and 19.05, the ICAV shall in each year hold a general meeting as its annual general meeting in addition to any other meetings, where general or otherwise, it may hold in that year.

19.03 If the ICAV holds its first annual general meeting within 18 months after the date on which the registration order made by the Central Bank in respect of the ICAV comes into operation, the ICAV shall not be required to hold any other meeting as its annual general meeting in the year of its registration or in the following year.

19.04 Subject to Clauses 19.03 and 19.05, not more than 15 months may elapse between the date of one annual general meeting of the ICAV and the date of the next.

19.05 The Directors of the ICAV may elect to dispense with the holding of an annual general meeting by giving 60 days' written notice to all of the ICAV's Members. Any election made hereunder shall have effect for the year in which it is made and subsequent years, but does not affect any liability already incurred by reason of default in holding an annual general meeting. However, where an election made hereunder has effect for a year, one or more Members of the ICAV holding, or together holding, not less than 10 per cent of the voting rights in the ICAV or the Auditors may require the ICAV to hold an annual general meeting in that year by giving notice in writing to the ICAV in the previous year or at least one month before the end of that year and the ICAV shall hold the required meeting.

- 19.06 All general meetings (other than annual general meetings) shall be called extraordinary general meetings.
- 19.07 The Directors may call an extraordinary general meeting whenever they think fit.
- 19.08 If at any time, there are not sufficient Directors capable of acting to form a quorum, any Director or Member of the ICAV may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors.
- 19.09 One or more Members of the ICAV holding, or together holding, at any time not less than 50 per cent of the voting rights in the ICAV may convene an extraordinary general meeting of the ICAV.
- 19.10 The Directors of the ICAV shall, at the request of one or more Members holding, or together holding, at the date of the making of the request, not less than 10 per cent of the voting rights in the ICAV, proceed to convene an extraordinary general meeting of the ICAV. The request shall state the objects of the meeting and shall be signed by those making the request and deposited at the registered office of the ICAV and may consist of several documents in like form each signed by one or more of those making the request. If the Directors do not within 21 days after the date of the deposit of the request proceed to convene a meeting to be held within 2 months after that date, those making the request, or any of them representing more than 50 per cent of the total voting rights of all of them, may themselves convene a meeting, but any meeting so convened shall not be held more than 3 months after the date the request was first made. Any reasonable expenses incurred by those making the request by reason of the failure of the Directors duly to convene a meeting shall be repaid to those making the request by the ICAV and any sum so repaid shall be retained by the ICAV out of any sums due or to become due from the ICAV by way of fees or other remuneration in respect of their services to such of the Directors as were in default.
- 19.11 A meeting convened by Members under Clause 19.09 or Clause 19.10 shall be convened in the same manner as nearly as possible as that in which meetings of Members are to be convened by Directors.

## **20.00 NOTICE OF GENERAL MEETINGS**

- 20.01 Each annual general meeting and extraordinary general meeting (called for the passing of a Special Resolution or Ordinary Resolution) shall be called by not less than fourteen Clear Days' notice which, in each case, shall specify the place, the day and the hour of the meeting, and in the case of special business the general nature of such business (and in the case of an annual general meeting that the meeting is an annual general meeting) and shall be given in the manner hereinafter provided to such persons as are under the provisions of this Instrument or the conditions of issue of the shares held by them entitled to receive notices from the ICAV.
- 20.02 The Directors, the Manager, the Investment Manager, the Administrator, the Auditors and the

Depository shall be entitled to receive notice of and attend and speak at any general meeting of the ICAV. The Directors may in their discretion consider requests from other parties.

- 20.03 In every notice calling a meeting of the ICAV, there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint one or more proxies to attend and vote instead of him and that a proxy need not also be a Member.
- 20.04 The accidental omission to give notice to or the non-receipt of notice by any person entitled to receive notice shall not invalidate the proceedings at any general meeting.

#### **21.00 PROCEEDINGS AT GENERAL MEETINGS**

- 21.01 All business shall be deemed special that is transacted at an extraordinary general meeting, as shall all business that is transacted at an annual general meeting (with the exception of the consideration of the accounts and balance sheet and the reports of the Directors and Auditors, the election of Directors and the election of Directors in the place of those retiring, and the re-appointment of the retiring Auditors and the fixing of the remuneration of the Auditors).
- 21.02 No business shall be transacted at any general meeting unless a quorum is present. Subject to Clause 6.03, two Members present either in person or by proxy shall be a quorum for a general meeting of the ICAV, Fund(s) or Class(es) of Participating Shares. A representative of a corporation authorised pursuant to Clause 22.12 of this Instrument and present at any meeting of the ICAV or at any meeting of a Fund or Class or Classes of Members shall be deemed to be a Member for the purpose of constituting a quorum.
- 21.03 If within half an hour after the time appointed for a meeting a quorum is not present, the meeting, if convened on the requisition of or by Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and 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, the Member present shall be a quorum and in the case of a meeting of a Class convened to consider the variation of rights of Members in such Class the quorum shall be one Member holding shares of the Class in question or his proxy.
- 21.04 The chairman, if one is appointed or, if he is absent, the deputy chairman of the Directors, or failing him, some other Director nominated by the Directors shall preside as chairman at every general meeting of the ICAV, but if at any meeting neither the chairman nor the deputy chairman nor such other Director is present within fifteen minutes after the time appointed for holding the meeting, or if none of them be willing to act as chairman, the Directors present shall choose some Director present to be chairman, or if no Directors are present, or if all the Directors present decline to take the chair, the Members present shall choose some Member present to be chairman.
- 21.05 The chairman may with the consent of any 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 except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for fourteen days or more ten Clear Days' notice at least specifying the place, the day and the hour of the adjourned meeting, shall be given as in the case of the original meeting but it shall not be necessary to specify in such notice the nature of the business to be transacted at the adjourned meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

- 21.06 At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands unless before or upon the declaration of the result of the show of hands a poll is demanded by the chairman or by at least two Members present in person or by proxy or any Member or Members present in person or by proxy representing at least one tenth of the shares in issue having the right to vote at the meeting. Unless a poll is so demanded, a declaration by the chairman that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the book containing the minutes of the proceedings of the ICAV shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- 21.07 On a poll every Shareholder present in person or by proxy and entitled to vote shall have one vote in respect of each Participating Share held by him and every holder of Management Shares shall be entitled to one vote in respect of all Management Shares held by him. A Member entitled to more than one vote need not cast all his votes or cast all the votes he uses in the same way. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.
- 21.08 If a poll is duly demanded, it shall be taken in such manner and at such place as the chairman may direct (including the use of ballot or voting papers or tickets) and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 21.09 The chairman may, in the event of a poll, appoint scrutinisers and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll.
- 21.10 A poll demanded on the election of a chairman and a poll demanded on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and place as the chairman directs not being more than thirty days from the date of the meeting or adjourned meeting at which the poll was demanded.
- 21.11 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.
- 21.12 A demand for a poll may be withdrawn and no notice need be given of a poll not taken

immediately.

- 21.13 A resolution in writing signed by all the Members of the ICAV, Fund or Class for the time being entitled to attend and vote on such resolution at a general meeting (or being bodies corporate by their duly appointed representatives) shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the ICAV, Fund or Class duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more Members, and if described as a Special Resolution shall be deemed to be a special resolution within the meaning of this Instrument. In the case of a corporation a resolution in writing may be signed on its behalf by a director or the secretary thereof or by its duly appointed attorney or duly authorised representative.
- 21.14 Subject to the Central Bank's requirements, notwithstanding anything to the contrary in this Instrument, a resolution in writing that is described as being an Ordinary Resolution or a Special Resolution which is signed by a Member or Members who, at the time of the signing of the resolution concerned, represent more than 50%, in the case of an Ordinary Resolution or 75%, in the case of a Special Resolution, of the total voting rights of all the Members who, at that time, would have the right to attend and vote at a general meeting of the ICAV or relevant Fund or Class and in respect of which all Members of the ICAV or relevant Fund or Class (as the case may be) concerned entitled to attend and vote on the resolution have been circulated by the Directors (or other person proposing it) with the proposed text of the resolution, shall be as valid and effective for all purposes as if the Ordinary Resolution or Special Resolution, as the case may be, had been passed at a general meeting of the ICAV or relevant Fund or Class duly convened and held.
- 21.15 The provisions of this Clause and of Clauses 19.00, 20.00 and 22.00 shall, save to the extent expressly provided in this Instrument with respect to meetings of a Fund or Class, apply mutatis mutandis to separate meetings of each Fund or Class of Members.

## **22.00 VOTES OF MEMBERS**

- 22.01 Each Class of Participating Shares may be issued with such voting rights or restrictions on voting rights as the Directors determine in their absolute discretion, including non-voting Classes. The voting rights attaching to Participating Shares may be set out in the Prospectus or relevant Supplement. On a show of hands every Shareholder (with applicable voting rights) present in person or by proxy shall be entitled to one vote and a holder of Management Shares shall be entitled to one vote in respect of all Management Shares.
- 22.02 On a poll every Shareholder present in person or by proxy shall be entitled to one vote in respect of each Participating Share (with applicable voting rights) held by him and a holder of Management Shares shall be entitled to one vote in respect of all Management Shares held by him. A Shareholder entitled to more than one vote need not cast all his votes, or cast all the votes he uses in the same way.
- 22.03 In the case of joint holders of a share, the vote of the senior who tenders a vote, whether in

person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the shares.

- 22.04 A Member of unsound mind in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote whether on a show of hands or on a poll, by his committee, receiver, guardian or other person in the nature of a committee, receiver, guardian appointed by such court and such committee, receiver, guardian or other persons may on a poll vote by proxy, provided that such evidence as the Directors may require of the authority of the persons claiming to vote shall have been deposited at the Office not less than forty eight hours before the time for holding the meeting or adjourned meeting at which such person claims to vote.
- 22.05 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.
- 22.06 On a poll votes may be given either personally or by proxy. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or if the appointor is a corporation, either under its common seal or under the hand of an officer or attorney so authorised. An instrument of proxy shall be in any usual form or in such form as the Directors may approve PROVIDED ALWAYS that such form shall give the Member the choice of authorising his/her proxy to vote for or against each resolution.
- 22.07 Any person (whether a Member or not) may be appointed to act as a proxy. A Member may appoint more than one proxy to attend on the same occasion.
- 22.08 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority, shall be deposited at the Office or at such other place as is specified for that purpose in the notice of meeting or in the instrument of proxy issued by the ICAV not less than such minimum time specified before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid.
- 22.09 No instrument appointing a proxy shall be valid after the expiration of twelve months from the date named in it as the date of its execution, except at an adjourned meeting or on a poll demanded at a meeting or an adjourned meeting in cases where the meeting was originally held within twelve months from such date.
- 22.10 The Directors may at the expense of the ICAV send, by post or otherwise, to the Members instruments of proxy (with or without prepaid postage for their return) for use at any general meeting or at any meeting of any Class of Members, either in blank or nominating in the

alternative any one or more of the Directors or any other persons. If for the purpose of any meeting invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the expense of the ICAV, such invitations shall be issued to all (and not to some only) of the Members entitled to be sent a notice of the meeting and to vote thereafter by proxy.

- 22.11 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or insanity of the principal or the revocation of the instrument of proxy, or of the authority under which the instrument of proxy was executed, or the transfer of the shares in respect of which the instrument of proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the ICAV at the Office, before the commencement of the meeting or adjourned meeting at which the instrument of proxy is used.
- 22.12 Any body corporate which is a Member, may authorise by resolution of its directors or other governing body such person as it thinks fit to act as its representative at any meeting of the ICAV and the person so authorised shall be entitled to exercise the same powers on behalf of the body corporate which he represents as that body corporate could exercise if it were an individual Member and such body corporate shall for the purposes of this Instrument be deemed to be present in person at any such meeting if a person so authorised is present in person or by proxy thereat.

### **23.00 DIRECTORS**

- 23.01 The ICAV shall have at least two Directors.
- 23.02 A Director need not be a Member.
- 23.03 This Instrument contains no provisions requiring Directors to retire on attaining a particular age.
- 23.04 The provisions of the Act relating to restrictions on directors of an insolvent company or disqualifying persons from being appointed or acting as a director or other officer, statutory auditor, receiver or liquidator, or being in any way (directly or indirectly) concerned or taking part in the promotion, formation or management of a company shall apply to the ICAV.
- 23.05 A Director may vote and be counted in the quorum at a meeting to consider the appointment or the fixing or variation of the terms of appointment of any Director to any office or employment with the ICAV or any company in which the ICAV is interested, but a Director may not vote or be counted in the quorum on a resolution concerning his own appointment.
- 23.06 The Directors of the ICAV for the time being are entitled to such remuneration as may be determined by the Directors and disclosed in the Prospectus issued by the ICAV from time to time. The Directors may also be reimbursed all reasonable travel, hotel and other incidental expenses incurred in connection with the business of the ICAV or the discharge of their

duties. The ICAV shall not make to any Director any payment by way of compensation for loss of office, or as consideration for or in connection with retirement from office, unless the following conditions are satisfied, (a) that particulars relating to the proposed payment (including its amount) are disclosed to Members, and (b) that the proposal is approved by Ordinary Resolution of the ICAV in a general meeting.

- 23.07 The Directors may in addition to such remuneration as is referred to in Clause 23.06 of this Instrument grant special remuneration to any Director who, being called upon, shall perform any special or extra services to or at the request of the ICAV.
- 23.08 Any Director may at any time by instrument in writing under his hand and deposited at the Office, or delivered at a meeting of the Directors, appoint any Director or other person to be his alternate Director and may in like manner at any time terminate such appointment. Save as otherwise provided in this Instrument, an alternate Director shall be deemed for all purposes to be a Director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director appointing him.
- 23.09 The appointment of an alternate Director shall terminate if his appointor dies or ceases to be a Director or on the happening of any event with respect to the alternate Director which if he were a Director would cause him to vacate such office. However, if a Director retires by rotation or otherwise but is re-appointed or deemed to have been re-appointed at the meeting at which he retires, any appointment of an alternate Director made by him which was in force immediately prior to this retirement shall continue after his re-appointment.
- 23.10 An alternate Director shall be entitled to receive notices of meetings of the Directors and shall be entitled to attend and vote as a Director at any such meeting at which the Director appointing him is not personally present and generally at such meeting to perform all functions of his appointor as a Director and for the purposes of the proceedings at such meeting the provisions hereof shall apply as if he (instead of his appointor) were a Director. If he himself shall be a Director or attends a meeting as an alternate for more than one Director, his voting rights shall be cumulative, provided however, that he shall count as one for the purposes of determining a quorum. If his appointor is for the time being temporarily unable to act, his signature to any resolution in writing of the Directors and for the purposes of affixing the Seal shall be as effective as the signature of his appointor. To such extent as the Directors may from time to time determine in relation to any committee of the Directors, the foregoing provisions of this paragraph shall also apply mutatis mutandis to any meeting of any such committee of which his appointor is a member. An alternate Director shall not (save as aforesaid or as otherwise herein provided) have power to act as a Director nor shall he be deemed to be a Director.
- 23.11 An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent mutatis mutandis as if he were a Director but he shall not be entitled to receive from the ICAV in respect of his appointment as alternate Director any remuneration



except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the ICAV from time to time direct.

23.12 The office of a Director shall be vacated in any of the following events namely:-

- (a) if he resigns his office by notice in writing signed by him and left at the Office;
- (b) if he becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (c) if he becomes of unsound mind;
- (d) if he is absent from meetings of the Directors for six successive months without leave expressed by a resolution of the Directors, and the Directors resolve that his office be vacated;
- (e) if he ceases to be a Director by virtue of, or becomes prohibited or restricted from being a Director by reason of, an order made under the provisions of any law or enactment;
- (f) if he is requested by a majority of the other Directors (not being less than two in number) to vacate office;
- (g) if he is removed from office by Ordinary Resolution of the ICAV in accordance with the provisions of the Act, as set out in Clause 23.13; or
- (h) if he ceases to be approved to act as a Director by the Central Bank.

23.13 The ICAV may by Ordinary Resolution remove a Director before the end of the Director's period of office despite anything in this Instrument or in any agreement between the ICAV and the Director, in accordance with the provisions of the Act

23.14 The Directors may, whether by standing resolution or otherwise, delegate all their powers to any duly authorised Officer or other person or committee subject to such terms and conditions as the Directors in their absolute discretion may resolve.

23.15 The Directors shall have power at any time and from time to time to appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors. Directors are not required to retire by rotation.

23.16 The Members shall have the power at a general meeting of the ICAV to appoint any person to be a Director provided that a motion for the appointment of two or more persons as Directors of the ICAV by a single resolution shall not be made unless a resolution that it shall be so made has first been agreed to by the meeting without any vote being given against it.

## **24.00 TRANSACTIONS WITH DIRECTORS**

- 24.01 A Director may hold any other office or place of profit under the ICAV (other than the office of Auditor) in conjunction with his office of Director on such terms as to tenure of office and otherwise as the Directors may determine.
- 24.02 No Director or intending Director shall be disqualified by his office from contracting with the ICAV either as vendor, purchaser or otherwise, nor shall any such contract or any contract or arrangement entered into by or on behalf of the ICAV in which any Director is in any way interested be liable to be avoided, nor shall any Director so contracting or being so interested be liable to account to the ICAV for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship thereby established, but the nature of his interest must be declared by him. It shall be the duty of a Director of the ICAV who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the ICAV to declare the nature of his or her interest at a meeting of the Directors of the ICAV. This Clause does not apply in relation to an interest that cannot reasonably be regarded as likely to give rise to a conflict of interest. The declaration required by this Clause to be made by a Director shall (a) in the case of a proposed contract, be made at the meeting of the Directors at which the question of entering into the contract is first taken into consideration, or if the Director was not at the date of that meeting interested in the proposed contract, at the next meeting of the Directors held after he or she became so interested, (b) in a case where the Director becomes interested in a contract after it is made, be made at the first meeting of the Directors held after the Director becomes so interested. A general notice in writing given to the Directors by any Director to the effect that (a) he is a shareholder of any specified company or firm, and is to be regarded as interested in any contract which may thereafter be made with that company or firm or (b) he is to be regarded as interested in any contract which may after the date of the notice be made with a specified person who is connected with him or her (within the meaning of Part 4, Chapter 1 of the Act) shall (if such Director shall give the same at a meeting of the Directors or shall take reasonable steps to secure that the same is brought up and read at the next meeting of the Directors after it is given) be deemed a sufficient declaration of interest in relation to any contract or arrangement made.
- 24.03 Save as herein provided, a Director shall not vote in respect of any contract or arrangement or any proposal whatsoever in which he has any material interest otherwise than by virtue of his interests in shares or debentures or other securities of or otherwise in or through the ICAV. A Director shall not be counted in the quorum at a meeting in relation to any resolution on which he is debarred from voting.
- 24.04 A Director shall in the absence of some material interest other than that indicated below, be entitled to vote and be counted in the quorum in respect of any resolution concerning any of the following matters, namely:-

- (a) the giving of any security or indemnity to him in respect of money lent or obligations incurred by him at the request of or for the benefit of the ICAV or any of its subsidiaries or associated companies;
- (b) the giving of any security, guarantee or indemnity to a third party in respect of a debt or obligation of the ICAV or any of its subsidiaries or associated companies for which he himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the giving of security;
- (c) any proposal concerning an offer of shares or other securities of or by the ICAV or any of its subsidiaries or associated companies for subscription or purchase in which offer he is or is to be interested as a participant in the underwriting or sub-underwriting thereof; or
- (d) any proposal concerning any other company in which he is interested, directly or indirectly and whether as an officer or shareholder or otherwise howsoever PROVIDED THAT he is not the holder of or beneficially interested in five per cent or more of the issued shares of any class of such company, or of any third company through which his interest is derived, or of any of the voting rights available to shareholders of the relevant company (any such interest being deemed for the purposes of this Clause to be a material interest in all circumstances).
- (e) any proposal concerning the purchase of any policy of insurance against directors' and officers' liability.

24.05 In accordance with the provisions of the Act, a Director has a duty to disclose payments made where in connection with the transfer of Participating Shares in the ICAV payment is to be made to the Director by way of compensation for loss of office, or as consideration for or in connection with retirement from office.

24.06 Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employment with the ICAV or any company in which the ICAV is interested, such proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned (if not otherwise debarred from voting) shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his own appointment.

24.07 If any question shall arise at any meeting as to the materiality of a Director's interest or as to the entitlement of any Director to vote and such question is not resolved by his voluntarily agreeing to abstain from voting, such question shall be referred to the chairman of the meeting and his ruling in relation to any Director shall be final and conclusive except in a case where the nature or extent of the interests of the Director concerned has not been fairly disclosed.

- 24.08 For the purpose of this Clause, an interest of a person who is connected with a Director (i.e. within the meaning of Part 4, Chapter 1, of the Act) shall be treated as an interest of the Director and, in the case of an alternate Director, an interest of his appointor shall be treated as an interest of the alternate Director.
- 24.09 Any Director may act by himself or through his firm in a professional capacity for the ICAV, and he or his firm shall be entitled to remuneration for professional services as if he were not a Director, provided that nothing herein contained shall authorise a Director or his firm to act as Auditor.
- 24.10 The Directors may from time to time appoint one or more of their body to be the holder of any executive office on such terms and for such period as they may determine and, without prejudice to the terms of any contract entered into in any particular case, may at any time revoke any such appointment.
- 24.11 The Directors may entrust to and confer upon any Director holding any executive office any of the powers exercisable by them as Directors upon such terms and conditions and with such restrictions as they think fit, and either collaterally with or to the exclusion of their own powers, and may from time to time revoke, withdraw, alter or vary all or any of such powers.
- 24.12 Any Director may continue to be or become a director, managing director, manager or other officer or shareholder of any company promoted by the ICAV or in which the ICAV may be interested or associated in business, and no such Director shall be accountable for any remuneration or other benefits received by him as a director, managing director, manager, or other officer or shareholder of any such other company. The Directors may exercise the voting power conferred by the shares in any other company held or owned by the ICAV or exercisable by them as directors of such other company, in such manner in all respects as they think fit (including the exercise thereof in favour of any resolution appointing themselves or any of them directors, managing directors, managers or other officers of such company, or voting or providing for the payment of remuneration to the directors, managing directors, managers or other officers of such company).
- 24.13 In accordance with the provisions of the Act, the ICAV shall keep a register showing, in relation to each Director and Secretary of the ICAV, the number, description and amount of any shares of (a) the ICAV, or (b) any other body corporate which is the ICAV's subsidiary or holding company, or a subsidiary of the ICAV's holding company, which are held by, or in trust for, him or her, his or her spouse or any child of his or hers of which he or she has any right to become the holder (whether on payment or not). The register shall be kept at the same office as the register of Members is kept, and shall be open to inspection during normal business hours (subject to such reasonable restrictions as the Directors may determine and impose generally or in a general meeting so that not less than two hours in each day be allowed for inspection) by any Member of the ICAV. The register shall also be produced at the commencement of the ICAV's annual general meeting and shall remain open and accessible during the continuation of the meeting to any person attending the meeting.

24.14 The ICAV may by Ordinary Resolution suspend or relax the provisions of this Clause 24 to any extent or ratify any transaction not duly authorised by reason of a contravention hereof.

**25.00 POWERS AND DUTIES OF DIRECTORS**

25.01 The business of the ICAV shall be managed by the Directors, who may exercise all such powers of the ICAV as are not by the Act or by this Instrument required to be exercised by the ICAV in general meeting, subject, nevertheless to the provisions of the Act, and to such directions, being not inconsistent with this Instrument or the Act, as may be given by the ICAV in general meeting, provided that no such direction given by the ICAV in general meeting shall invalidate any prior act of the Directors which would have been valid if such direction had not been given. The general powers given by this Clause shall not be limited or restricted by any special authority or power given to the Directors by this or any other Clause.

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

25.03 The Directors may, whether by standing resolution, power of attorney or otherwise, delegate all their powers, authorities or discretions for such period and subject to such conditions as they may think fit including without limitation relating to the issue and redemption of Participating Shares, the calculation of the Net Asset Value per Participating Share, the declaration of dividends and the management, investment management and administration of the ICAV, to any duly authorised company, firm or other person subject to such terms and conditions as the Directors in their absolute discretion may resolve and, subject to the Act, may also authorise any such company, firm or person to delegate all or any of the powers, authorities and discretions so delegated.

25.04 Subject as provided in this Clause, the Directors may exercise all the powers of the ICAV to invest all or any funds of the ICAV or the subscription proceeds of any Participating Shares in any securities and other assets authorised by Clause 18.00 hereof.

25.05 A Director of the ICAV shall owe the principal fiduciary duties to the ICAV (and the ICAV alone) as set out in the Act.

25.06 If a Director of the ICAV considers in good faith that it is in the interests of the ICAV or relevant Fund for a transaction or engagement to be entered into and carried into effect, a Director may restrict his power to exercise an independent judgement in the future by agreeing to act in a particular way to achieve this.

25.07 In accordance with the provisions of the Act, the Directors may authorise any person(s) from time to time as an authorised signatory of the ICAV for the purpose of executing documents under the Seal of the ICAV.

## **26.00 BORROWING POWERS**

26.01 Subject to any limits imposed by the Regulations and any derogations therefrom permitted by the Central Bank from time to time, the Directors may exercise all powers of the ICAV to borrow money or securities and to transfer, mortgage or charge or pledge or transfer its undertaking, property and assets, or any part thereof and to issue bonds, notes, debentures, debenture stock or other securities whether outright or as security for any debts or obligations of the ICAV.

## **27.00 PROCEEDINGS OF DIRECTORS**

27.01 The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. The Directors may all meet together, or in part or form a committee to carry out any of their powers (subject to having a minimum quorum) Questions arising at any meeting shall be determined by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.

27.02 The quorum necessary for the transaction of business of the Directors may be fixed by the Directors, and unless so fixed at any other number shall be two.

27.03 The continuing Directors or a sole continuing Director may act notwithstanding any vacancies in their number, but if and so long as the number of Directors is reduced below the minimum number fixed by or in accordance with this Instrument, the continuing Directors or Director may act for the purpose of filling up vacancies in their number or of summoning general meetings of the ICAV, but not for any other purpose. If there be no Directors or Director able or willing to act, then any two Members may summon a general meeting for the purpose of appointing Directors.

27.04 The Directors may from time to time elect and remove a chairman and, if they think fit, a deputy chairman and determine the period for which they respectively are to hold office.

27.05 The chairman or, failing him, the deputy chairman shall preside at all meetings of the Directors, but if there is no chairman or deputy chairman, or if at any meeting the chairman or deputy chairman is not present within five minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman of the meeting.

27.06 Any Director or alternate Director may participate in a meeting of the Directors or any committee of the Directors by means of conference telephone or other telecommunications equipment by means of which all persons participating in the meeting can hear each other speak and such participation in a meeting shall constitute presence in person at the meeting.

27.07 A resolution in writing signed by all the Directors for the time being entitled to receive notice of a meeting of the Directors and to vote thereat shall be as valid and effectual as a resolution

passed at a meeting of the Directors duly convened and may consist of several documents in the like form each signed by one or more of the Directors, and for the purposes of the foregoing signature by any alternate Director shall be as effective as the signature of the Director by whom he is appointed.

- 27.08 A meeting of the Directors for the time being at which a quorum is present shall be competent to exercise all powers, authorities and discretions for the time being exercisable by the Directors.
- 27.09 The Directors may delegate any of their powers or authorities or the exercise of discretion to committees consisting of such members of their body as they think fit. The meetings and proceedings of any such committee shall conform to the requirements as to quorum imposed under the provisions of Clause 27.02 and shall be governed by the provisions of this Instrument regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations imposed on them by the Directors.
- 27.10 Pursuant to the provisions of Clause 27.09, the Directors may delegate their powers relating to the declaration of interim dividends to a committee consisting of two or more Directors.
- 27.11 All acts done by any meeting of Directors, or of a committee of Directors or by any person acting as a Director shall, notwithstanding it be afterwards discovered that there was some defect in the appointment of any such Directors or person acting as aforesaid, or that they or any of them were disqualified, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed, and was qualified and had continued to be a Director and had been entitled to vote.
- 27.12 The Directors shall cause minutes to be made of:-
- (a) all appointments of officers made by the Directors;
  - (b) the names of the Directors present at each meeting of the Directors and of any committee of Directors; and
  - (c) all resolutions and proceedings of all meetings of the ICAV and of the Directors and of committees of Directors

Minutes may be made of any other matters as the Directors see fit.

- 27.13 Any such minutes as are referred to in Clause 27.12 of this Instrument, if purporting to be signed by the chairman of the meeting at which the proceedings took place, or by the chairman of the next succeeding meeting, shall, until the contrary be proved, be conclusive evidence of their proceedings.
- 27.14 Where minutes have been made of the proceedings at any general meeting of the ICAV or meeting of directors or committee of directors then, until the contrary is shown, the meeting

shall be deemed to have been duly held and convened, and all proceedings at the meeting to have been duly had, and all appointments of directors or liquidators shall be deemed to be valid.

27.15 The Directors, from time to time and at any time by power of attorney under the Seal or otherwise, may appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the ICAV for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Instrument) and for such period and subject to such conditions as they may think fit. Any such power of attorney may contain such provisions for the protection of persons dealing with any such attorney as the Directors may think fit and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him. Notwithstanding the generality of the foregoing, the Directors may appoint an attorney for the purpose of exercising their power to allot relevant securities pursuant to this Instrument.

## **28.00 MANAGING DIRECTORS**

28.01 The Directors may from time to time appoint one or more of their body to be a Managing Director or Managing Directors of the ICAV and may fix his or their remuneration.

28.02 Every Managing Director shall be liable to be dismissed or removed from his position as Managing Director by the Directors and another person appointed in his place. The Directors may, however, enter into an agreement with any person who is or is about to become a Managing Director with regard to the length and terms of his employment, but so that the remedy of any such person for any breach of such agreement shall be in damages only and he shall have no right or claim to continue in such office contrary to the will of the Directors or of the ICAV in general meeting.

28.03 The Directors may from time to time entrust to and confer upon the Managing Director or Managing Directors all or any of the powers of the Directors (not including the power to borrow money or issue debentures) that they may think fit. But the exercise of all powers by the Managing Director or Managing Directors shall be subject to all such regulations and restrictions as the Directors may from time to time make and impose and the said powers may at any time be withdrawn, revoked or varied.

## **29.00 SECRETARY**

29.01 The Secretary shall be appointed by the Directors. Anything required or authorised to be done by or to the Secretary may, if the office is vacant or there is for any other reason no Secretary capable of acting, be done by or to any assistant or deputy Secretary or if there is no assistant or deputy Secretary capable of acting, by or to any officer of the ICAV authorised generally or specially in that behalf by the Directors PROVIDED THAT any provisions of this Instrument requiring or authorising anything to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and



as, or in the place of, the Secretary.

### **30.00 THE SEAL**

30.01 Where the ICAV provides itself with a Seal, the Directors shall provide for its safe custody. The Seal shall be used only by the authority of the Directors or of a committee of Directors authorised by the Directors in that behalf. Where the ICAV provides itself with a Seal, the fixing of the Seal must be authenticated by two authorised signatories (as permitted by the Act) or by a Director alone provided that such signature is attested by a witness.

30.02 Where the ICAV does not provide itself with a Seal as permitted by the Act, or where the ICAV does have a Seal, any document shall have the same effect as executed under the Seal if it is expressed (in whatever form of words) to be executed by the ICAV by two authorised signatories (as permitted by the Act) or by a Director alone provided that such signature is attested by a witness.

### **31.00 DIVIDENDS**

31.01 Directors may declare such dividends on any Class of Participating Shares in the ICAV or in any Fund that appear to the Directors to be justified provided always that no dividend shall exceed the amount recommended by the Directors.

31.02 Holders of Management Shares shall not be entitled to receive any dividend in respect of such Management Shares.

31.03

(a) The Directors may if they think fit declare and pay such dividends in respect of any Participating Shares in the ICAV as appear to the Directors to be justified, subject to any policy statement in relation to dividends in the Prospectus or any Supplement with respect to any Fund or Class of Participating Shares;

(b) The Directors may in their absolute discretion differentiate between the Participating Shares in any Fund and Participating Shares in different Classes within the same Fund as to the dividends declared on such Participating Shares.

31.04 The dividend policy for each Class of Participating Shares and Fund will be specified in the relevant Supplement.

31.05 Subject to Clause 31.01, the amount available for distribution in respect of any Accounting Period shall be the capital or net income received by the ICAV in respect of the relevant Fund in respect of Investments (whether in the form of dividends, interest or otherwise) and /or net realised and unrealised capital gains (i.e. realised and unrealised capital gains net of realised and unrealised capital losses) during the Accounting Period, subject to such adjustments as may be appropriate under the following headings:

- (a) addition or deduction of a sum by way of adjustment to allow for the effect of sales or purchases, cum or ex-dividend;
- (b) addition of a sum representing any interest or dividend or other income accrued but not received by the ICAV in respect of the relevant Fund or Class of Participating Shares at the end of the Accounting Period and deduction of a sum representing (to the extent that an adjustment by way of addition has been made in respect of any previous Accounting Period) interest or dividends or other income accrued at the end of the previous Accounting Period;
- (c) addition of the amount (if any) available for distribution in respect of the last preceding Accounting Period but not distributed in respect thereof;
- (d) addition of a sum representing the estimated or actual repayment of tax resulting from any claims in respect of corporation tax relief or double taxation relief or otherwise;
- (e) deduction of the amount of any tax or other estimated or actual liability properly payable out of the income or gains of the ICAV in respect of the relevant Fund or Class of Participating Shares;
- (f) deduction of a sum representing participation in income paid upon the cancellation of Participating Shares during the Accounting Period;
- (g) deduction of such sum as the Directors with the approval of the Auditors may think appropriate in respect of expenses of the relevant Fund or Class of Participating Shares including but not limited to the Organisational Expenses, Duties and Charges, fees and expenses due to the Auditors, the Secretary, the legal and other professional advisers of the ICAV, the Directors, the Manager, the Depositary, the Administrator, and any distributor or investment manager appointed by the ICAV, all expenses of and incidental to any amendments to the Prospectus and this Instrument for the purpose of procuring that the ICAV conforms to legislation coming into force after the date of registration hereof and any other amendments made pursuant to a resolution of the ICAV, expenses comprising all costs, charges, professional fees and disbursements bona fide incurred in respect of the computation, claiming or reclaiming of all taxation reliefs and payments, and any interest paid or payable on borrowings to the extent that such sum has not already been, nor will be deducted pursuant to Clause 3.00 of this Instrument PROVIDED ALWAYS that the ICAV shall not be responsible for any error in any estimates of corporation tax repayments or double taxation relief expected to be obtained or of any sums payable by way of taxation or of income receivable, and if the same shall not prove in all respects correct, the Directors shall ensure that any consequent deficiency or surplus shall be adjusted in the Accounting Period in which a further or final settlement is made of such tax repayment or liability or claim to relief or in the amount of any such estimated income receivable, and no adjustment shall be made to any dividend

previously declared.

- 31.06 The Directors may, with the sanction of an Ordinary Resolution, distribute in kind among the Shareholders of such Fund by way of dividend or otherwise any of the assets of the relevant Fund. In this event, the ICAV will, if requested, sell any asset or assets proposed to be distributed in kind and distribute to such Shareholder the cash proceeds less the costs of such sale, which shall be borne by the relevant Shareholder.
- 31.07 All Participating Shares, unless otherwise determined by the Directors or issued on terms providing that they shall rank for dividend as and from or after a particular date or to a particular extent, shall rank for dividend as from the beginning of the Accounting Period in which they are issued.
- 31.08 Any resolution of the Directors declaring a dividend on any Participating Shares may specify that the same shall be payable to the persons registered as Shareholders of such Participating Shares at the close of business on a particular date, notwithstanding that it may be a date prior to that on which the resolution is passed, and thereupon the dividend shall be payable to them in accordance with their respective holdings so registered, but without prejudice to the rights inter se of transferors and transferees of such Participating Shares in respect of such dividend.
- 31.09 The ICAV may transmit any dividend or other amount payable in respect of any Participating Share at the risk and cost of the relevant Shareholder by cheque sent by ordinary post to the registered address of the holder, or, in the case of joint holders, to the person whose name and address appears first on the Register or to such person and address as the Shareholder or joint Shareholders may direct, by wire or electronic transfer at the risk and cost of the relevant Shareholder to a designated account payment of every such cheque and transmission by wire or electronic transfer shall constitute a good discharge to the ICAV and the ICAV shall not be responsible for any loss arising in respect of such payment or transmission.
- 31.10 No dividend or other amount payable to any Shareholder shall bear interest against the ICAV. All unclaimed dividends and other amounts payable as aforesaid may be invested or otherwise made use of for the benefit of the relevant Fund until claimed. Payment by the ICAV of any unclaimed dividend or other amount payable in respect of a Participating Share into a separate account shall not constitute the ICAV a trustee in respect thereof. Any dividend unclaimed after six years from the date when it first became payable or on the winding up of the ICAV, if earlier, shall be forfeited automatically and shall revert to the relevant Fund, without the necessity for any declaration or other action by the ICAV.
- 31.11 At the request of any Shareholder in a particular Fund or Class, the Directors may apply all dividends declared on all Participating Shares held by such Shareholder in the issue to that Shareholder of such number of additional Participating Shares in the relevant Fund or Class as are as nearly as possible equal in value to but not in excess of the amount of such dividends at the date of issue of such additional Participating Shares and otherwise on such

terms as the Directors from time to time may resolve provided however that subject to Clause 31.12 hereof such Shareholder shall be entitled to revoke such request with respect to all Participating Shares in the relevant Fund or Class held by him and instead receive a cash dividend in respect of such Participating Shares.

### 31.12

(a) Subject to Clause 31.12(b) hereof the Directors may determine that Shareholders will be entitled to receive in lieu of any dividend (or part thereof) in respect of any Participating Shares in any Fund or Class an issue of additional Participating Shares in proportion to the number of Participating Shares held by them in the relevant Fund or Class credited as fully paid and in any such case the following provisions shall apply:-

- (i) the number of additional Participating Shares (including any fractional entitlement) to be issued in lieu of any amount of dividend shall be as nearly as possible equal in value to but not in excess of the amount of such dividend at the date of issue of such additional Participating Shares;
- (ii) for such purpose the Directors shall capitalise a sum equal to the aggregate value of dividends in respect of which additional Participating Shares are proposed to be issued and apply the same in paying up in full the appropriate number of additional Participating Shares for issue to the relevant Shareholders credited as fully paid up;
- (iii) the additional Participating Shares so issued shall rank *pari passu* in all respects with the fully-paid Participating Shares then in issue save only as regards participation in the relevant dividend (or share election in lieu);
- (iv) the Directors may do all acts and things considered necessary or expedient to give effect to any such capitalisation, with full power to the Directors to make such provision as they may think fit in the case of Participating Shares becoming distributable in fractions so that fractional entitlements are disregarded or rounded up or the benefit of fractional entitlements accrues to the ICAV or the ICAV issues fractions of Participating Shares; and
- (v) the Directors may on any occasion determine that Participating Shares in lieu of dividends shall not be issued to a Shareholder with a registered address in any territory in which, in the absence of a registration statement or other special formalities, the issue of additional Participating Shares would or might be unlawful and in such event the provisions aforesaid shall be read and construed subject to such determination.

(b)

- (i) An applicant for or transferee of Participating Shares may subject to Clause 31.12 hereof elect by service of notice in writing on the ICAV, at the time of

application for or other acquisition of Participating Shares, to receive cash in lieu of additional Participating Shares in satisfaction of the whole of any dividends that may be payable on all Participating Shares of the particular Fund or Class which may thereafter be registered in his name and may on the giving of one month's notice in writing to the ICAV or such lesser period as the Directors may determine revoke any election so made with respect to dividends declared after the expiration of such notice period.

- (ii) An election made pursuant to this Clause shall be personal to the Shareholder concerned in his capacity as a holder and, in respect of any Participating Shares transferred, shall automatically cease to have effect upon registration of the transfer or transmission of the relevant Participating Shares but shall continue in effect in respect of Participating Shares retained.

### 31.13

- (a) Where the amount of any distribution payable to an individual Shareholder would be less than €100.00 (or its foreign currency equivalent), the Directors in their sole discretion may determine that such amount shall not be distributed but shall be retained and reinvested within and for the benefit of that proportion of the relevant Fund or Class.
- (b) Where the amount of any dividend payable to an individual Shareholder would be less than €100.00 (or its foreign equivalent), the Directors in their sole discretion may determine not to pay any such dividend and instead issue and credit to the account of the relevant Shareholder such number of Participating Shares in the relevant Fund or Class as are as nearly as possible equal in value to but not in excess of the amount of such dividends. A sales charge shall not be deducted from such amount.

31.14 If several persons are registered as joint holders any one of them may give receipts for dividends or monies payable to them in respect of Participating Shares.

31.15 Before recommending any dividend, whether preferential or otherwise, the Directors may carry to reserve out of the profits of the ICAV such sums as they think proper. All sums standing to reserve may be applied from time to time in the discretion of the Directors for any purpose to which the profits of the ICAV may be properly applied and at the like discretion may be either employed in the business of the ICAV or invested in such Investments as the Directors may lawfully determine. The Directors may divide the reserve into such special funds as they think fit and may consolidate into one fund any special funds or any parts of any special funds into which the reserve may have been divided as they may lawfully determine. Any sum which the Directors may carry to reserve out of the unrealised profits of the ICAV shall not be mixed with any reserve to which profits available for distribution have been carried. The Directors may also carry forward, without placing the same to reserve, any profits which they may think it prudent not to divide.

31.16 If the ICAV is required to deduct, withhold or account for tax including any penalties and

interest thereon upon the payment of a distribution to a Shareholder (whether in cash or otherwise), the provisions of Clause 12.11 hereof shall apply mutatis mutandis as if repeated in full herein.

### **32.00 CAPITALISATION OF PROFITS AND RESERVES**

32.01 The Directors may determine that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the ICAV's reserve accounts (including capital reserves) or to the credit of the profit and loss account or which is otherwise available for distribution and not required for payment of dividend on any Participating Shares with a preferential right to dividend amongst the Shareholders who would have been entitled thereto if distributed by way of dividend and in the same proportion on condition that the same be not paid in cash but be applied either in or towards paying up in full unissued Participating Shares of the ICAV to be allotted and distributed credited as fully paid up to and amongst such Shareholders in the proportion aforesaid, or partly in one way and partly in the other, and the Directors shall give effect to such resolution.

32.02 The Directors may determine that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the ICAV's reserve accounts or to the credit of the profit and loss account which is not available for distribution by applying such sum in applying up in full unissued Participating Shares to be allotted as fully paid bonus Participating Shares to those Shareholders of the ICAV who would have been entitled to that sum if it were distributable and had been distributed by way of dividend (and in the same proportions) and the Directors shall give effect to such resolution.

32.03 The Directors shall make all appropriations and applications of the undivided profits resolved to be capitalised thereby and all allotments and issues of fully paid Participating Shares, if any, and generally shall do all acts and things required to give effect thereto with full power to the Directors to make such provisions as they shall think fit for payment in cash or otherwise in the case of Participating Shares becoming distributable in fractions and to authorise any person to enter on behalf of all the Shareholders entitled thereto into an agreement with the ICAV providing for the allotment to them respectively, credited as fully paid up, of any further Participating Shares to which they may become entitled upon such capitalisation or (as the case may require) for the payment up by the ICAV on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing Participating Shares, and any agreement made under such authority shall be effective and binding on all such Shareholders.

### **33.00 EQUALISATION ACCOUNT**

33.01 The Directors may from time to time at their discretion operate an equalisation account in respect or one or more Funds on such basis as may be determined by them including without limitation for performance fee adjustments.

## **34.00 ACCOUNTS**

34.01 The Directors shall keep or cause to be kept adequate accounting records in accordance with the requirements of the Act and so as to enable the accounts of the ICAV to be prepared.

34.02 The accounting records shall be kept at the Office, or at such other place or places as the Directors shall think fit. If accounting records are kept at a place outside the State, there shall be sent to and kept at a place in the State and be at all reasonable times open to inspection by the Directors such information and returns relating to the business dealt with in the accounting records so kept as will:-

- (a) disclose with reasonable accuracy the financial position of that business at intervals not exceeding 6 months, and
- (b) enable to be prepared in accordance with the Act the ICAV's balance sheet, its profit and loss account or income and expenditure account and any other document containing information which is required by the Act.

34.03 The accounting records and any information and returns containing information required pursuant to the Act, shall be kept by the ICAV for a period of at least 6 years after the latest date to which they relate. The accounts shall at all times be open to the inspection of the Directors and officers of the ICAV, but no person, other than a Director, officers of the ICAV or the Auditors shall be entitled to inspect the accounting records of the ICAV.

34.04 The Directors of the ICAV shall prepare accounts for each financial year as at each Accounting Date. The accounts shall include the following:

- (a) a balance sheet or statement of the assets and liabilities attributable to the ICAV;
- (b) a detailed income and expenditure account for the financial year; and
- (c) such other information provided for in the Act.

The annual accounts shall give a true and fair view of the assets, liabilities and financial position of the ICAV at the end of the financial year and of the profit or loss of the ICAV for the financial year.

34.05 The annual accounts of the ICAV shall contain, so far as the information is contained in the ICAV's accounting records or the ICAV has the right to obtain it from the persons concerned –

- (a) the aggregate amount of the Directors' emoluments,
- (b) the aggregate amount of Directors', or former directors', pensions, and

- (c) the aggregate amount of any compensation to Directors or former directors in respect of loss of office.
- 34.06 The accounts may be prepared in accordance with generally accepted accounting practice in the State, international financial reporting standards, or an alternative body of accounting standards (as prescribed by the Act).
- 34.07 Separate accounts may be prepared and presented in respect of a Fund or Funds and all references in this Clause 34.00 to the ICAV be read as, where appropriate, referring to the Fund or Funds in respect of which the separate accounts are to be prepared.
- 34.08 The accounts of the ICAV shall for each financial year include a report from the Directors dealing, so far as is material for the appreciation of the state of the ICAV's affairs (and, if it has subsidiaries, of the affairs of the ICAV and its subsidiaries as a group), with:-
- (a) any change during the financial year in the nature of the business of the ICAV or of the ICAV's subsidiaries in the classes of business in which the ICAV has an interest whether as a member of another ICAV or a company or otherwise, and
  - (b) the amount, if any, which they recommend should be paid by way of dividend and the amount, if any, which they propose to carry to reserves.

The Directors' report shall be approved by the Board of Directors and signed on behalf of the ICAV by any two Directors.

The Directors' report shall contain the information prescribed in accordance with the Act.

- 34.09 The Directors shall cause to be audited by the Auditors a report to the Members as of the Accounting Date in each year. A copy of the auditor's report shall be attached to the annual accounts and Director's report for the financial year to which the report relates. In preparing the Auditors' report, the Auditor shall (a) consider whether the information given in the directors' report relating to the financial year is consistent with the accounts prepared by the ICAV for that year; and (b) state in the report whether, in the Auditor's opinion that information is, or is not, consistent with those accounts. The auditors' report shall state clearly the statutory auditors' opinion as to— (a) whether the annual accounts give a true and fair view of (i) in the case of a balance sheet, of the assets, liabilities and financial position of the ICAV at the end of the financial year, (ii) in the case of a profit and loss account, of the profit or loss of the ICAV for the financial year, and (b) whether the annual accounts have been properly prepared in accordance with the relevant financial reporting framework.
- 34.10 Copies of the said annual accounts shall be made available and/or sent by the ICAV to all Members at least once in every year but not later than four months after the end of the period to which they relate.
- 34.11 Copies of unaudited half-yearly accounts for the six months immediately succeeding the date



of the last annual accounts shall be made available and/or sent to all Members not later than two months from the end of the period to which they relate.

### **35.00 AUDITORS**

- 35.01 The ICAV shall at each annual general meeting appoint an Auditor or Auditors to hold office until the conclusion of the next annual general meeting.
- 35.02 The first Auditors shall be appointed by the Directors before the first general meeting, and they shall hold office until the conclusion of the first annual general meeting. Where no appointment is made by the Directors before the first general meeting, the first Auditors may be appointed in general meeting.
- 35.03 On the date on which the holding of an annual general meeting is dispensed with in accordance with the Act, any Auditor or Auditors appointed in accordance with Clause 35.02 cease to hold office and the Directors shall immediately reappoint the Auditor or Auditors or appoint a new auditor or auditors.
- 35.04 Where the ICAV has dispensed of the requirement to hold annual general meetings in accordance with Clause 19.05 the Directors shall appoint the Auditor or Auditors.
- 35.05 Where, in any case, no Auditors are appointed as required by Clause 35.04, the Central Bank may appoint a person to fill the vacancy.
- 35.06 The appointment and removal of Auditors and the determination of eligibility for appointment as Auditors to the ICAV shall be governed by the provisions of the Act.
- 35.07 The remuneration of the Auditors who are appointed by the ICAV in general meeting shall be approved by the ICAV in general meeting or in such manner as the ICAV in general meeting may determine.
- 35.08 The remuneration of the Auditors of who are appointed by the Directors or the Central Bank shall be fixed by the Directors or the Central Bank (and be payable by the ICAV in the case where it is fixed by the Bank).
- 35.09 The Auditors shall at all times have the right of access to the ICAV's accounting records and shall be entitled to require from the Directors and officers of the ICAV such information and explanations as the Auditors consider necessary for the performance of their duties.
- 35.10 The Auditors shall be entitled to attend any general meeting of the ICAV and to receive all notices of, and other communications relating to, any general meeting which any Member is entitled to receive and to be heard at any general meeting at which any business of the meeting concerns them as Auditors. The right of an Auditor to attend and be heard at a general meeting is exercisable in the case of a body corporate or partnership by an individual authorised by it in writing to act as its representative at the meeting.

### **36.00 NOTICES**

36.01 Any notice or other document required to be served upon or sent to a Member or the first named of joint Members shall be deemed to have been duly given as follows:

| <b>MEANS OF DISPATCH</b> | <b>DEEMED RECEIVED</b>   |
|--------------------------|--|
| Post                     | 48 hours after posting.  |
| Fax                      | The day on which a positive transmission receipt is received.  |
| Electronically           | The day on which the electronic transmission has been sent to the electronic information system designated by a Member.                      |
| Publication              | The day of publication in a daily newspaper or other medium circulating in the country or countries where Participating Shares are marketed. |

36.02 Service of a notice or document on the first named of several joint Members shall be deemed effective service on himself and the other joint Members.

36.03 Any notice or document sent by post to or left at the registered address of a Member or delivered via electronic mail to an email address or via facsimile transmission to a facsimile number provided by a Member in pursuance of this Instrument shall notwithstanding that such Member be then dead or bankrupt and whether or not the ICAV or its delegate has notice of his death or bankruptcy be deemed to have been duly served, sent or delivered and such service shall be deemed a sufficient service on or receipt by all persons interested (whether jointly with or as claiming through or under him) in the shares concerned.

36.04 Any certificate or notice or other document which is sent in accordance with this Clause or dispatched by or on behalf of the ICAV or its delegate in accordance with the Member's instructions shall be so sent, left or dispatched at the risk of such Member.

36.05 Any notice in writing or other document in writing required to be served upon or sent to the ICAV shall be deemed to have been duly given if sent by post to the Office or left at the Office or in accordance with any procedures specified in the Prospectus with respect to service of notice to the ICAV in specific circumstances.

### **37.00 WINDING UP**

37.01 The ICAV may be wound up:

- (a) if at any time after the first anniversary of the registration of the ICAV, the Net Asset Value of the ICAV falls below such figure as may be determined by the Directors and may be disclosed in the Prospectus, on each Dealing Day for such

period as may be determined by the Directors and the Members resolve to wind up the ICAV by Ordinary Resolution; or

- (b) an event specified at Clause 4.06 has occurred and the Members of the ICAV resolve by Ordinary Resolution to wind up the ICAV;
- (c) when it becomes illegal or in the opinion of the Directors of the ICAV impracticable or inadvisable to continue operating the ICAV.

37.02 In all cases other than those set out in Clause 37.01 above, the Members may resolve to wind up the ICAV by Special Resolution in accordance with the summary approval procedure as provided for in the Act.

37.03 In the event of a winding up the liquidator shall firstly apply the assets of the ICAV in satisfaction of creditors' claims in such manner and order as he thinks fit. The liquidator shall in relation to the assets available for distribution among Members make such transfers thereof to and from the Classes as may be necessary in order that the effective burden of creditors' claims may be shared between the Members of different Classes in such proportions as the liquidator in his discretion deems equitable.

37.04 The assets available for distribution among the Members shall be applied in the following priority:

- (i) Firstly, in the payment to the holders of the Participating Shares of each Class or Fund of a sum in the Base Currency (or in any other currency selected by the liquidator) as nearly as possible equal (at a rate of exchange determined by the liquidator) to the Net Asset Value of the Participating Shares of such Class or Fund held by such Shareholders respectively as at the date of commencement of winding up.
- (ii) Secondly, in the payment to the holders of the Management Shares of sums up to the consideration paid therefor out of the assets of the ICAV not comprised within any Funds provided that if there are insufficient assets to enable such payment in full to be made, no recourse shall be had to the assets comprised in any of the Funds.
- (iii) Thirdly, in the payment to the holders of Participating Shares of each Class or Fund of any balance then remaining in the relevant Fund, such payment being made in proportion to the number of Participating Shares of the relevant Class or Fund held.
- (iv) Fourthly, any balance then remaining and not attributable to any Fund or Class of Participating Shares shall be apportioned between the Funds and Classes of Participating Shares pro-rata to the Net Asset Value of each Fund or Class of Participating Shares immediately prior to any distribution to Shareholders and

the amounts so apportioned shall be paid to Shareholders pro-rata to the number of Participating Shares in that Fund or Class held by them.

- 37.05 The liquidator may with the authority of an Ordinary Resolution of the ICAV divide among the Shareholders (pro rata to the value of their respective shareholdings in the ICAV) in specie the whole or any part of the assets of the ICAV, and whether or not the assets shall consist of property of a single kind provided that any Shareholder shall be entitled to request the sale of any asset or assets proposed to be so distributed and the distribution to such Shareholder of the cash proceeds of such sale. The costs of any such sale shall be borne by the relevant Shareholder. The liquidator may, with the like authority, vest any part of the assets in trustees upon such trusts for the benefit of Shareholders as the liquidator shall think fit, and the liquidation of the ICAV may be closed and the ICAV dissolved, but so that no Shareholder shall be compelled to accept any asset in respect of which there is any liability. Further the liquidator may with like authority transfer the whole or part of the assets of the ICAV to a company or collective investment scheme (the “**Transferee Company**”) on terms that Shareholders in the ICAV shall receive from the Transferee Company shares or units in the Transferee Company of equivalent value to their shareholdings in the ICAV.
- 37.06 Notwithstanding any other provision contained in this Instrument, should the Directors at any time and in their absolute discretion resolve that it would be in the best interests of the Shareholders to wind up the ICAV, then any such winding up shall be commenced in accordance with the summary approval procedure as provided for in the Act. Any liquidator appointed to wind up the ICAV shall distribute the assets of the ICAV in accordance with the provisions of this Clause 37.00.

#### **38.00 INDEMNITY AND INSURANCE**

- 38.01 Every person or body corporate who is or has been a Director or Secretary of the ICAV or any person or body corporate who is or has acted as auditor of the ICAV and such person's heirs, administrators and executors, shall be indemnified and secured harmless out of the assets and profits of the ICAV from and against all actions, costs, charges, losses, damages and expenses, which they or any of them, their or any of their heirs, administrators or executors shall or may incur or sustain by reason of any contract entered into or any act done, concurred in, or omitted in or about the execution of their duty or supposed duty in their respective offices or trusts, except such (if any) as they shall incur or sustain by or through their own negligence, default, breach of duty or breach of trust, and the amount for which such indemnity is provided shall immediately attach as a lien on the property of the ICAV and have priority as between the Members over all other claims. None of the foregoing shall be answerable for the acts, receipts, neglects, or defaults of the other or others of them, or for joining in any receipt for the sake of conformity, or for any bankers, brokers, or other persons into whose hands any money or assets of the ICAV may come, or for any defects of title of the ICAV to any property purchased, or for insufficiency or deficiency of or defect of title of the ICAV to any security upon which any moneys of or belonging to the ICAV shall be placed out or invested, or for any loss, misfortune or damage

resulting from any such cause as aforesaid, or which may happen in the execution of their respective offices or trusts, or in relation thereto, unless the same shall happen by or through their own negligence, default, breach of duty or breach of trust. The ICAV may indemnify any Director, Secretary, or any auditor against any liability incurred by him in defending proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted. The rights of indemnification herein provided shall be severable, shall not affect any other rights to which any Director, Secretary or auditor may now or hereafter be entitled and shall have effect in so far as they are not avoided by section 190 of the Act. A Director for the purposes of this Clause shall include any alternate Director appointed by a Director from time to time in accordance with this Instrument.

- 38.02 The Administrator, the Depositary, the Manager, the Investment Manager and the Distributor shall be entitled to such indemnity from the ICAV upon such terms and subject to such conditions and exceptions and with such entitlement to have recourse to the assets of the ICAV with a view to meeting and discharging the cost thereof as shall be provided under the Administration Agreement, the Depositary Agreement, the Management Agreement, the Investment Management Agreement and any Distribution Agreement (as applicable) provided that in the case of the Administrator, Manager, Investment Manager and/or Distributor, no such indemnity shall extend to any matters arising from their own negligence, fraud or wilful default and, in the case of the Depositary, no such indemnity shall extend to any matters arising from the Depositary's unjustifiable failure to properly fulfil its obligations or its improper performance of its obligations pursuant to the Regulations.
- 38.03 None of the ICAV, the Manager, the Investment Manager, the Administrator, the Depositary and the Distributor or any of their directors, officers, employees or agents will be responsible or liable for the authenticity of subscription or related instructions from Shareholders reasonably believed to be genuine and shall not be liable for any losses, costs or expenses arising out of or in conjunction with any unauthorised or fraudulent instructions. The foregoing parties shall be entitled to rely absolutely on any Standing Redemption and Payment Instructions and on any declaration received from a Shareholder as to residence or otherwise of such Shareholder and shall not incur liability in respect of any action taken or thing suffered by any of them in good faith in reliance upon any paper or document believed to be genuine and to have been sealed or signed by the proper parties nor be in any way liable for any forged or unauthorised signature on or any common seal affixed to any such document or for acting on or giving effect to any such forged or unauthorised signature or common seal but shall be entitled though not bound to require the signature of any person to be verified by a banker, broker or other responsible person or otherwise authenticated to its or their satisfaction.
- 38.04 The ICAV, the Manager, the Investment Manager, the Administrator, the Depositary and the Distributor shall incur no liability to the Shareholders for doing or (as the case may be) failing to do any act or thing which by reason of any provision of any present or future law or regulation made pursuant thereto, or of any decree, order or judgment of any court, or by reason of any request announcement or similar action (whether of binding legal effect or not) which may be taken or made by any person or body acting with or purporting to

exercise the authority of any government (whether legally or otherwise) either they or any of them shall be directed or requested to do or perform or to forbear from doing or performing. If for any reason it becomes impossible or impracticable to carry out any of the provisions of this Instrument none of the ICAV, the Manager, the Investment Manager, the Administrator, the Distributor or the Depositary shall be under any liability therefor or thereby.

- 38.05 This Clause shall not, however, exempt the ICAV, the Manager, the Investment Manager, the Administrator, the Depositary or the Distributor from any liability they may incur as a result of a failure to adhere to their obligations as set out in the Act or any liability incurred as a result of any negligence, fraud, or wilful default on the part of the ICAV, the Manager, the Investment Manager, the Administrator or the Distributor and also in the case of the Depositary its unjustifiable failure to properly fulfil its obligations or its improper performance of its obligations pursuant to the Regulations.
- 38.06 For the avoidance of doubt, no Director (including any alternate Director) shall be liable for the acts or omissions of any other Director.
- 38.07 In accordance with Section 190 of the Act, the Directors shall have the power to purchase and maintain for the benefit of any persons who are or were at any time Directors, Secretary or Auditors of the ICAV insurance against any liability incurred by such persons in respect of any act or omission in the execution or discharge of their duties or in the exercise of their powers, and the Directors shall be entitled to vote and be counted in the quorum in respect of any resolution concerning the purchase of such insurance. A Director for the purposes of this Clause shall include any alternate Director appointed by a Director from time to time in accordance with this Instrument.

### **39.00 DESTRUCTION OF DOCUMENTS**

- 39.01 The ICAV may destroy:-
- (a) any dividend mandate or any variation or cancellation thereof or any notification of change of name or address at any time after the expiry of two years from the date such mandate, variation, cancellation or notification was recorded by the ICAV;
  - (b) any instrument of transfer of shares which has been registered at any time after the expiry of six years from the date of registration thereof; and
  - (c) any other document on the basis of which an entry in the Register is made at any time after the expiry of ten years from the date an entry in the Register was first made in respect of it; and it shall conclusively be presumed in favour of the ICAV that every instrument of transfer so destroyed was a valid and effective instrument duly and properly registered and that every other document hereinbefore mentioned so destroyed was a valid and effective document in accordance with the recorded particulars thereof in the books or records of the ICAV PROVIDED ALWAYS that:-

- (i) the foregoing provisions of this Clause shall apply only to the destruction of a document in good faith and without express notice to the ICAV that the preservation of such document was relevant to a claim;
- (ii) nothing contained in this Clause shall be construed as imposing upon the ICAV any liability in respect of the destruction of any such document earlier than as aforesaid or in any case where the conditions of proviso (i) above are not fulfilled; and
- (iii) references in this Clause to the destruction of any document includes references to its disposal in any manner.

**40.00 AMENDMENT OF THIS INSTRUMENT**

This Instrument shall not be amended other than in accordance with the requirements of the Central Bank and only when such amendment(s) have been approved by the Members or certified by the Depositary in accordance with the provisions of the Act.

**41.00 GOVERNING LAW**

This Instrument and any non-contractual obligations arising out of or in connection with this Instrument shall be governed by and construed in accordance with the laws of Ireland.

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We, the persons whose names, addresses and descriptions are subscribed, wish to be formed into an ICAV in pursuance of this Instrument of Incorporation and we agree to subscribe our names to this Instrument of Incorporation.

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**Names, Addresses and Descriptions  
of Subscribers**

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Andurand Capital Management Ltd  
The Hedge Business Centre  
Level 5  
Triq Ir-Rampa ta' San Giljan,  
Balluta Bay  
St. Julian's  
STJ 1062  
Malta

Andurand Capital Management LLP  
100 Brompton Road  
London SW3 1ER  
United Kingdom

Dated     day of                     , 2016

Witness to the above signatures:

Jeff Mackey  
Dillon Eustace  
33 Sir John Rogerson's Quay  
Dublin 2  
Ireland